

## CHAPTER 535

## MONEY AND INTEREST

Referred to in §175.12, 535B.7, 535D.13, 536.13, 536.16, 536A.30, 537.1301, 537.2301, 669.14

535.1	Denominations of money.	535.12	Loans by agricultural credit corporation.
535.2	Rate of interest.	535.13	Definition.
535.3	Interest on judgments and decrees.	535.14	Prompt crediting of payment on loans secured by residential real property.
535.4	Illegal rate prohibited — usury.	535.15	Repealed by 99 Acts, ch 73, §1.
535.5	Penalty for usury.	535.16	Delivery of copies of debt documents.
535.6	Repealed by 82 Acts, ch 1153, §18.	535.17	Requirements of credit agreements — statute of frauds — modifications.
535.7	Assignee of usurious contract.	535.18	Consumer credit terms for service members — enforcement.
535.8	Loan charges limited.		
535.9	Prepayment penalties on loans secured by real estate mortgages prohibited.		
535.10	Home equity line of credit.		
535.11	Finance charge on accounts receivable.		

**535.1 Denominations of money.**

The money of account of this state is the dollar, cent, and mill, and all public accounts, and the proceedings of all courts in relation to money, shall be kept and expressed in the above denominations. Demands expressed in money of another denomination shall not be affected by the provisions of this section, but in any action or proceeding based thereon it shall be reduced to and computed by the denominations given.

[C51, §943, 944; R60, §1785, 1786; C73, §2075, 2076; C97, §3037; C24, 27, 31, 35, 39, §9403; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, C81, §535.1]

**535.2 Rate of interest.**

1. Except as provided in subsection 2 hereof, the rate of interest shall be five cents on the hundred by the year in the following cases, unless the parties shall agree in writing for the payment of interest at a rate not exceeding the rate permitted by subsection 3:

- a. Money due by express contract.
- b. Money after the same becomes due.
- c. Money loaned.
- d. Money received to the use of another and retained beyond a reasonable time, without the owner's consent, express or implied.
- e. Money due on the settlement of accounts from the day the balance is ascertained.
- f. Money due upon open accounts after six months from the date of the last item.
- g. Money due, or to become due, where there is a contract to pay interest, and no rate is stipulated.

2. a. The following persons may agree in writing to pay any rate of interest, and a person so agreeing in writing shall not plead or interpose the claim or defense of usury in any action or proceeding, and the person agreeing to receive the interest is not subject to any penalty or forfeiture for agreeing to receive or for receiving the interest:

- (1) A person borrowing money for the purpose of acquiring real property or refinancing a contract for deed.
- (2) A person borrowing money or obtaining credit in an amount which exceeds twenty-five thousand dollars, exclusive of interest, for the purpose of constructing improvements on real property, whether or not the real property is owned by the person.
- (3) A vendee under a contract for deed to real property.
- (4) A domestic or foreign corporation, and a real estate investment trust as defined in section 856 of the Internal Revenue Code, and a person purchasing securities as defined in chapter 502 on credit from a broker or dealer registered or licensed under chapter 502 or under the Securities Exchange Act of 1934, 15 U.S.C., ch. 78A, as amended.
- (5) A person borrowing money or obtaining credit for business or agricultural purposes,

or a person borrowing money or obtaining credit in an amount which exceeds twenty-five thousand dollars for personal, family, or household purposes. As used in this paragraph, “*agricultural purpose*” means as defined in section 535.13, and “*business purpose*” includes but is not limited to a commercial, service, or industrial enterprise carried on for profit and an investment activity.

b. In determining exemptions under this subsection, the rules of construction stated in this paragraph apply:

(1) The purpose for which money is borrowed is the purpose to which a majority of the loan proceeds are applied or are designated in the agreement to be applied.

(2) Loan proceeds used to refinance or pay a prior loan owed by the same borrower are applied for the same purposes and in the same proportion as the original principal of the loan that is refinanced or paid.

(3) If the lender releases the original borrower from all personal liability with respect to the loan, loan proceeds used to pay a prior loan by a different borrower are applied for the new borrower’s purposes in agreeing to pay the prior loan.

(4) If the lender releases the original borrower from all personal liability with respect to the loan, the assumption of a loan by a new borrower is treated as if the new borrower had obtained a new loan and had used all of the proceeds to pay the loan assumed.

(5) This paragraph does not modify or limit section 535.8, subsection 2, paragraph “c” or “e”.

(6) With respect to any transaction referred to in paragraph “a” of this subsection, this subsection supersedes any interest-rate or finance-charge limitations contained in the Code, including but not limited to this chapter and chapters 321, 322, 524, 533, 536A, and 537.

3. a. (1) The maximum lawful rate of interest which may be provided for in any written agreement for the payment of interest entered into during any calendar month commencing on or after April 13, 1979, shall be two percentage points above the monthly average ten-year constant maturity interest rate of United States government notes and bonds as published by the board of governors of the federal reserve system for the calendar month second preceding the month during which the maximum rate based thereon will be effective, rounded to the nearest one-fourth of one percent per year.

(2) On or before the twentieth day of each month the superintendent of banking shall determine the maximum lawful rate of interest for the following calendar month as prescribed herein, and shall cause this rate to be published, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published in Polk county, prior to the first day of the following calendar month. This maximum lawful rate of interest shall be effective on the first day of the calendar month following publication. The determination of the maximum lawful rate of interest by the superintendent of banking shall be exempt from the provisions of chapter 17A.

b. Any rate of interest specified in any written agreement providing for the payment of interest shall, if such rate was lawful at the time the agreement was made, remain lawful during the entire term of the agreement, including any extensions or renewals thereof, for all money due or to become due thereunder including future advances, if any.

c. Any written agreement for the payment of interest made pursuant to a prior written agreement by a lender to lend money in the future, either to the other party to such prior written agreement or a third party beneficiary of such prior agreement, may provide for payment of interest at the lawful rate of interest at the time of the execution of the prior agreement regardless of the time at which the subsequent agreement is executed.

d. Any contract, note or other written agreement providing for the payment of a rate of interest permitted by this subsection which contains any provisions providing for an increase in the rate of interest prescribed therein shall, if such increase could be to a rate which would have been unlawful at the time the agreement was made, also provide for a reduction in the rate of interest prescribed therein, to be determined in the same manner and with the same frequency as any increase so provided for.

4. a. Notwithstanding the provisions of subsection 3, with respect to any agreement which was executed prior to August 3, 1978, and which contained a provision for the adjustment of the rate of interest specified in that agreement, the maximum lawful rate of interest which

may be imposed under that agreement shall be nine cents on the hundred by the year, and any excess charge shall be a violation of section 535.4.

b. Notwithstanding the limitation contained in paragraph “a” of this subsection, with respect to a written agreement for the repayment of money loaned, which was executed prior to August 3, 1978 and which provided for the payment of over fifty percent of the initial principal amount of the loan as a single payment due at the end of the term of the agreement, the interest rate may be adjusted after June 3, 1980 according to the terms of the agreement to any rate of interest permitted by the laws of this state as of the date an adjustment in interest is to be made. This paragraph does not authorize adjustment of interest in any manner other than that expressly permitted by the terms of the written agreement, and nothing contained in this paragraph authorizes the collection of additional interest with respect to any portion of a loan which was repaid prior to the effective date of an interest rate adjustment.

c. Notwithstanding paragraph “a”, when a written agreement providing for the repayment of money loaned, and requiring the payment of over fifty percent of the initial principal amount of the loan as a single payment due at the end of the term of the agreement is extended, renewed, or otherwise amended by the parties on or after August 3, 1978, the parties may agree to the payment of interest from the effective date of the extension, renewal, or amendment, at a rate and in a manner that is lawful for a new agreement made on that date.

5. This section shall not apply to any loan which is subject to the provisions of section 636.46.

6. a. Notwithstanding the provisions of 1980 Iowa Acts, chapter 1156, with respect to any agreement which was executed on or after August 3, 1978, and prior to July 1, 1979, and which contained a provision for the adjustment of the rate of interest specified in the agreement, the maximum lawful rate of interest which may be imposed under that agreement shall be that rate which is two and one-half percentage points above the rate initially to be paid under the agreement, provided that the greatest interest rate adjustment which may be made at any one time shall be one-half of one percent and an interest rate adjustment may not be made until at least one year has passed since the last interest rate adjustment, and any excess charge shall be a violation of section 535.4.

b. Notwithstanding the limitation contained in paragraph “a” of this subsection, with respect to a written agreement for the repayment of money loaned which was executed on or after August 3, 1978, and prior to July 1, 1979, and which provided for the payment of over fifty percent of the initial principal amount of the loan as a single payment due at the end of the term of the agreement, the interest rate may be adjusted after June 3, 1980, according to the terms of the agreement to any rate of interest permitted by the laws of this state as of the date an adjustment in interest is to be made. This paragraph does not authorize adjustment of interest in any manner other than that expressly permitted by the terms of the written agreement, and nothing contained in this paragraph authorizes the collection of additional interest with respect to any portion of a loan which was repaid prior to the effective date of an interest rate adjustment.

7. This section does not apply to a charge imposed for late payment of rent. However, in the case of a residential lease, a late payment fee shall not exceed ten dollars a day or forty dollars per month.

[C51, §945; R60, §1787; C73, §2077; C97, §3038; C24, 27, 31, 35, 39, §9404; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, C81, §535.2; 82 Acts, ch 1153, §4, 5]

93 Acts, ch 154, §5; 95 Acts, ch 125, §1; 2011 Acts, ch 25, §65; 2012 Acts, ch 1017, §132

Referred to in §103A.58, 322C.12, 455B.396, 533.316, 535.8, 535.11, 535.12, 536A.23, 602.8102(5), 668.13

[P] Life insurance policy loans; see §511.36

[T] Subsection 2, paragraph b, subparagraph (6) amended

### **535.3 Interest on judgments and decrees.**

1. Interest shall be allowed on all money due on judgments and decrees of courts at a rate calculated according to section 668.13, except for interest due pursuant to section 85.30 for which the rate shall be ten percent per year.

2. Interest on periodic payments for child, spousal, or medical support shall not accrue until thirty days after the payment becomes due and owing and shall accrue at a rate of ten

percent per annum thereafter. Additionally, interest on these payments shall not accrue on amounts being paid through income withholding pursuant to chapter 252D for the time these payments are unpaid solely because the date on which the payor of income withholds income based upon the payor's regular pay cycle varies from the provisions of the support order.

[C51, §946; R60, §1789; C73, §2078; C97, §3039; C24, 27, 31, 35, 39, §9405; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, C81, §535.3]

87 Acts, ch 157, §1; 96 Acts, ch 1141, §33; 97 Acts, ch 175, §232; 97 Acts, ch 197, §2 – 4, 16  
 Referred to in §85.22, 85.30, 85.47, 85.48, 87.11, 97A.14A, 97B.50A, 249A.5, 249B.6, 252C.6, 411.22, 445.3, 486A.104, 488.107, 502.102, 515B.5, 535.11, 657A.3, 657A.6, 715B.4

#### **535.4 Illegal rate prohibited — usury.**

No person shall, directly or indirectly, receive in money or in any other thing, or in any manner, any greater sum or value for the loan of money, or upon contract founded upon any sale or loan of real or personal property, than is in this chapter prescribed.

[R60, §1790; C73, §2079; C97, §3040; C24, 27, 31, 35, 39, §9406; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, C81, §535.4]

Referred to in §535.2

#### **535.5 Penalty for usury.**

If it is ascertained in an action brought on a contract that a rate of interest has been contracted for, directly or indirectly, in money or in property, greater than is authorized by this chapter, the rate shall work a forfeiture of eight cents on the hundred by the year upon the amount of the principal remaining unpaid upon the contract at the time judgment is rendered, and the court shall enter final judgment in favor of the plaintiff and against the defendant for the principal sum remaining unpaid without costs, and also against the defendant and in favor of the state, to be paid to the treasurer of state for deposit in the general fund of the state, for the amount of the forfeiture. If unlawful interest is contracted for the plaintiff shall not have judgment for more than the principal sum, whether the unlawful interest is incorporated with the principal or not.

[R60, §1791; C73, §2080; C97, §3041; C24, 27, 31, 35, 39, §9407; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, C81, §535.5]

83 Acts, ch 185, §52, 62; 83 Acts, ch 186, §10109, 10201, 10204

#### **535.6 Repealed by 82 Acts, ch 1153, § 18.**

#### **535.7 Assignee of usurious contract.**

Any assignee of a usurious contract, becoming such in good faith in the usual course of business and without notice of such fact, may recover of the usurer the full amount of the consideration paid by the assignee therefor, less any sum that may have been realized on the contract, anything in this chapter contained to the contrary notwithstanding.

[R60, §1792; C73, §2081; C97, §3042; C24, 27, 31, 35, 39, §9409; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, C81, §535.7]

#### **535.8 Loan charges limited.**

1. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. “*Lender*” means a person who makes or originates a loan; a person who is identified as a lender on the loan documents; a person who arranges, negotiates, or brokers a loan; and a person who provides any goods or services as an incident to or as a condition required for the making or closing of the loan. “*Lender*” does not include a licensed attorney admitted to practice in this state acting solely as an incident to the practice of law.

b. “*Loan*” means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or two-family dwelling occupied or to be occupied by the borrower. A loan includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

2. a. A borrower may be charged by a lender, in connection with a loan made pursuant to a written agreement executed by the borrower on or after July 1, 1983, or in connection

with a loan made pursuant to a written commitment by the lender mailed or delivered to the borrower on or after that date, a loan origination or processing fee, a broker fee, or both, which together do not exceed two percent of an amount which is equal to the loan principal; except that to the extent of an assumption by a new borrower of the obligation to make payments under a prior loan, or to the extent that the loan principal is used to refinance a prior loan between the same borrower and the same lender, the borrower may be charged by a lender a loan origination or processing fee, a broker fee, or both, which together do not exceed an amount which is a reasonable estimate of the expenses of processing the loan assumption or refinancing but which does not exceed one percent of the unpaid balance of the loan that is assumed or refinanced. In addition, a borrower may be charged by a lender, in contemplation of or in connection with a loan, a commitment fee, closing fee, or both, that is agreed to in writing by the lender and the borrower. A loan fee paid by a borrower to a lender under this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan fee collected under this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. A lender is prohibited from charging a borrower in connection with a loan a loan origination or processing fee, broker fee, closing fee, commitment fee, or similar charge other than expressly authorized by this paragraph or a payment reduction fee authorized by subsection 3.

b. (1) A borrower may be charged by a lender in connection with a loan any of the following costs which are incurred by the lender in connection with the loan and which are disclosed to the borrower:

(a) Credit reports.

(b) Appraisal fees paid to a third party, or when the appraisal is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the appraisal.

(c) Attorney's opinions.

(d) Abstracting fees paid to a third party, or when the abstracting is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the abstracting.

(e) County recorder's fees.

(f) Inspection fees.

(g) Mortgage guarantee insurance charge.

(h) Surveying of property.

(i) Termite inspection.

(j) The cost of a title guaranty issued by the Iowa finance authority pursuant to chapter 16.

(k) A bona fide and reasonable settlement or closing fee which is paid to a third party to settle or close the loan.

(2) The lender shall not charge the borrower for the cost of revenue stamps or real estate commissions which are paid by the seller.

(3) A lender shall not charge the borrower any costs other than expressly permitted by this paragraph "b". However, additional costs incurred in connection with a loan under this paragraph "b", if bona fide and reasonable, may be collected by a state-chartered financial institution licensed under chapter 524 or 533, to the extent permitted under applicable federal law as determined by the office of the comptroller of the currency of the United States department of treasury, the national credit union administration, or the office of thrift supervision of the United States department of treasury. Such costs shall apply only to the same type of state-chartered entity as the federally chartered entity affected and shall apply to and may be collected by an insurer organized under chapter 508 or 515, or otherwise authorized to conduct the business of insurance in this state.

(4) Nothing in this section shall be construed to change the prohibition against the sale of title insurance or sale of insurance against loss or damage by reason of defective title or encumbrances as provided in section 515.48, subsection 10.

c. If the purpose of the loan is to enable the borrower to purchase a single-family or two-family dwelling, for the borrower's residence, any provision of a loan agreement which prohibits the borrower from transferring the borrower's interest in the property to a third

party for use by the third party as the third party's residence, or any provision which requires or permits the lender to make a change in the interest rate, the repayment schedule or the term of the loan as a result of a transfer by the borrower of the borrower's interest in the property to a third party for use by the third party as the third party's residence shall not be enforceable except as provided in the following sentence. If the lender on reasonable grounds believes that its security interest or the likelihood of repayment is impaired, based solely on criteria which is not more restrictive than that used to evaluate a new mortgage loan application, the lender may accelerate the loan, or to offset any such impairment, may adjust the interest rate, the repayment schedule or the term of the loan. A provision of a loan agreement which violates this paragraph is void.

d. If a lender collects a fee or charge which is prohibited by paragraph "a" or "b" of this subsection or which exceeds the amount permitted by paragraph "a" or "b" of this subsection, the person from whom the fee was collected has the right to recover the unlawful fee or charge or the unlawful portion of the fee or charge, plus attorney fees and costs incurred in any action necessary to effect recovery.

e. (1) Notwithstanding section 628.3 when a foreclosure of a mortgage on real property results from the enforcement of a due-on-sale clause, the mortgagor may redeem the real property at any time within three years from the day of sale under the levy, and the mortgagor shall, in the meantime, be entitled to the possession thereof; and for the first thirty months thereafter such right of redemption is exclusive. Any real property redeemed by the debtor shall thereafter be free and clear from any liability for any unpaid portion of the judgment under which the real property was sold. The right of redemption established by this paragraph is not subject to waiver by the mortgagor and the period of redemption established by this paragraph shall not be reduced. The times for redemption by creditors provided in sections 628.5, 628.15 and 628.16 shall be extended to thirty-three months in any case in which the mortgagor's period for redemption is extended by this paragraph. This paragraph does not apply to foreclosure of a mortgage if for any reason other than enforcement of a due-on-sale clause. As used in this paragraph, "due-on-sale clause" means any type of covenant which gives the mortgagee the right to demand payment of the outstanding balance or a major part thereof upon a transfer by the mortgagor to a third party of an interest of the mortgagor in property covered by the mortgage. This paragraph applies to any foreclosure occurring on or after May 10, 1980. However, this paragraph does not apply if the lender establishes, based on reasonable criteria which are not more restrictive than those used to evaluate new mortgage-loan applications, that the security interest or the likelihood of repayment is impaired as a result of the transfer of interest.

(2) This lettered paragraph applies only to a mortgage given in connection with a loan as defined in subsection 1 of this section.

3. A lender who offers to make a loan with only those fees authorized by subsection 2 may also offer in exchange for the payment of an interest reduction fee to make a loan on all of the same terms except at a lower interest rate and with the lower payments resulting from the lower interest rate. Prior to accepting an application for a loan which includes a payment reduction fee, the lender shall provide the potential borrower with a written disclosure describing in plain language the specific terms which the loan would have both with the payment reduction fee and without it. This disclosure shall include a good faith example showing the amount of the payment reduction fee and the reduction in payments which would result from the payment of this fee in a typical loan transaction. A payment reduction fee which complies with this subsection may be collected in connection with a loan in addition to the fees authorized by subsection 2.

4. A lender shall not, as a condition of making a loan as defined in this section, require the borrower to place money, or to place property other than that which is given as security for the loan, on deposit with or in the possession or control of the lender or some other person if the effect is to increase the yield to the lender with respect to that loan; provided that this subsection shall not prohibit a lender from requiring the borrower to deposit money without interest with the lender in an escrow account for the payment of insurance premiums, property taxes and special assessments payable by the borrower to third persons. Any lender

who requires an escrow account shall not violate the provisions of section 507B.5, subsection 1, paragraph “a”.

5. If any lender receives interest either in a manner or in an amount which is prohibited by subsection 4 of this section, the borrower shall have the right to recover all amounts collected or earned by the lender, whether or not from the borrower, in violation of this section, plus attorney fees, plus court costs incurred in any action necessary to effect such recovery.

6. *a.* The provisions of this section shall not apply to any loan which is subject to the provisions of section 636.46, nor shall it apply to origination fees, administrative fees, commitment fees or similar charges paid by one lender to another lender if these fees are not ultimately paid either directly or indirectly by the borrower who occupies or will occupy the dwelling or by the seller of the dwelling.

*b.* A lender shall not use an appraisal for any purpose in connection with making a loan under this section if the appraisal is performed by a person who is employed by or affiliated with any person receiving a commission or fee from the seller of the property. If a lender violates this paragraph the borrower is entitled to recover any actual damages plus the costs paid by the borrower, plus attorney fees incurred in an action necessary to effect recovery.

[C79, S79, C81, §535.8; 81 Acts, ch 176, §1, 2]

83 Acts, ch 124, §19, 20; 85 Acts, ch 252, §39; 2004 Acts, ch 1141, §74; 2004 Acts, ch 1175, §262; 2005 Acts, ch 19, §113, 114; 2008 Acts, ch 1160, §14; 2008 Acts, ch 1191, §79, 80; 2012 Acts, ch 1017, §133

Referred to in §16.42, 524.905, 533.315, 535.2, 535.10, 536A.20, 537.1301

[T] Subsection 2, paragraph b, subparagraph (3) amended

### **535.9 Prepayment penalties on loans secured by real estate mortgages prohibited.**

1. As used in this section, “*loan*” means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower, or which is payable over a term of five years or less for the purpose of purchasing agricultural land. “*Loan*” includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

2. Whenever a borrower under a loan prepays part or all of the outstanding balance of the loan the lender shall not receive an amount in payment of interest which is greater than the amount determined by applying the rate of interest agreed upon by the lender and the borrower to the unpaid balance of the loan for a period of time during which the borrower had the use of the money loaned; and the lender shall not impose any penalty or other charge in addition to the amount of interest due as a result of the repayment of that loan at a date earlier than is required by the terms of the loan agreement. A lender may, however, require advance notice of not more than thirty days of a borrower’s intent to repay the entire outstanding balance of a loan if the payment of that balance, together with any partial prepayments made previously by the borrower, will result in the repayment of the loan at a date earlier than is required by the terms of the loan agreement.

3. If any lender receives an amount of interest greater than permitted by subsection 2 of this section, or imposes any penalty or other charge prohibited by subsection 2 of this section, the borrower shall have the right to recover all amounts paid the lender which are in excess of the amounts permitted by subsection 2 of this section, plus attorney’s fees and court costs incurred in any action necessary to effect such recovery.

[C79, S79, C81, §535.9]

2006 Acts, ch 1075, §1

Referred to in §533.315, 535.8, 536A.23

### **535.10 Home equity line of credit.**

1. As used in this chapter, the term “*home equity line of credit*” means an arrangement pursuant to which all of the following are applicable:

- a.* The amounts borrowed and the interest and other charges are debited to an account.
- b.* The interest is computed on the account periodically.
- c.* The borrower has the right to pay in full at any time without penalty or to pay in the installments which are established by the loan agreement.

d. The lender agrees to permit the borrower to borrow money from time to time with the maximum amount of each borrowing established by the loan agreement.

e. The account is secured by an interest in real estate. The priority of the secured interest in the real estate shall be determined by section 654.12A.

2. Except as provided in this section, a home equity line of credit is subject to chapter 537. However, sections 537.2307, 537.2402, and 537.2510 do not apply.

3. a. A lender may collect in connection with establishing or renewing a home equity line of credit the costs listed in section 535.8, subsection 2, paragraph “b”, charges for insurance as described in section 537.2501, subsection 2, and a loan processing fee as agreed between the borrower and the lender, and annually may collect an account maintenance fee of not more than fifteen dollars. Fees collected under this subsection shall be disregarded for purposes of determining the maximum charge permitted by subsection 4.

b. The parties to a home equity line of credit which is not a consumer credit transaction, as defined in section 537.1301, may contract for a delinquency charge under terms no more favorable than those permitted for open-end credit under section 537.2502.

4. The interest rate on a home equity line of credit shall not exceed one and three-quarters percent per month.

5. Real estate which is the consumer’s principal dwelling shall not be subject to foreclosure when the balance secured is two thousand dollars or less.

84 Acts, ch 1272, §1; 95 Acts, ch 35, §1; 99 Acts, ch 15, §1

Referred to in §535.17

#### **535.11 Finance charge on accounts receivable.**

1. Except where the parties have agreed in writing for the payment of a different finance charge or rate of interest, a creditor may charge a finance charge on the unpaid balances of an account receivable at a rate not exceeding that permitted by subsection 3 or 4 of this section if the creditor gives notice as required by subsection 2 of this section.

2. As a condition of imposing a finance charge under this section, the creditor shall give notice to the debtor as follows:

a. In a transaction that is subject to the Truth in Lending Act, the creditor shall give all disclosures as required by that Act and at the time or times required by that Act.

b. In a transaction that is not subject to the Truth in Lending Act, the creditor shall give written notice to the debtor at the time the debt arises. The notice shall be contained on the invoice or bill of sale evidencing the credit transaction, and shall disclose the rate of the finance charge and the date or day of the month before which payment must be received if the finance charge is to be avoided. With respect to open accounts, this notice shall be given at the time credit is initially extended; provided that additional advance notice in writing shall be given to the debtor not less than ninety days prior to any change in the terms of the agreement or of rate of the finance charge or date payment is due. For purposes of this paragraph, notice is given if the invoice or bill of sale is delivered with the goods, whether or not the debtor is present at the time of delivery.

c. As used in this subsection, “*Truth in Lending Act*” means as defined in section 537.1302.

3. With respect to an account other than an open account, the creditor may impose a finance charge not exceeding that permitted by section 537.2201, subsections 2 to 5.

4. With respect to an open account, the creditor may impose a finance charge not exceeding that permitted by section 537.2202, subsection 2.

5. As used in this section, “*finance charge*” means as defined in section 537.1301; and “*account receivable*” means a debt arising from the retail sale of goods or services or both on credit; and “*open account*” means an account receivable consisting of debt arising from the extension of open-end credit, as defined in section 537.1301.

6. This section does not supersede any of the provisions of chapter 537, except that section 537.3212 does not apply to a consumer credit transaction in which a finance charge is imposed under this section. This section does not authorize the compounding of a finance charge.

7. The finance charge authorized by this section is in lieu of interest or a finance charge authorized under section 535.2, subsection 1 or any other provision of law. The rate of a



finance charge imposed pursuant to this section is applicable to a judgment in an action on the account, notwithstanding section 535.3.

8. If a creditor imposes a finance charge in violation of this section, the debtor shall have the right to recover all amounts unlawfully received by the creditor as finance charges, plus attorney's fees and court costs incurred in any action to effect recovery. This subsection does not limit remedies which may be available under chapter 537.

[C81, §535.11; 82 Acts, ch 1153, §6, 18(1)]

98 Acts, ch 1100, §72

#### **535.12 Loans by agricultural credit corporation.**

1. An agricultural credit corporation, as defined in subsection 4, may lend money pursuant to a written promissory note or other writing evidencing the loan obligation, at a rate of interest which is not more than four percentage points above the lending rate in effect at the farm credit bank of Omaha, Nebraska, for the month during which the writing evidencing the loan obligation is made, provided that the loan is for an agricultural production purpose as defined in subsection 5 and further provided that the loan would, but for this section, be subject to the maximum rate of interest prescribed by section 535.2, subsection 3, paragraph "a".

2. On or prior to the first day of each calendar month following June 13, 1980, the superintendent of banking shall determine the maximum rate of interest which may be charged pursuant to subsection 1 of this section on loans made by an agricultural credit corporation during that month, and shall cause the maximum rate to be published as soon after determination as possible, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published in Polk county. The maximum rate so determined shall be effective as provided in subsection 1 of this section regardless of the date of publication of the notice, except that no agricultural credit corporation shall be found in violation of this chapter solely on account of having made a loan on or prior to the day on which a notice of a maximum rate is published as provided in this subsection, if the loan would have been lawful if made during the preceding calendar month.

3. This section does not prohibit an agricultural credit corporation from lending money as otherwise permitted by law.

4. As used in this section, "*agricultural credit corporation*" means a corporation which has been designated by the farm credit bank of Omaha, Nebraska, as an agricultural credit corporation eligible to sell or discount loans to that bank pursuant to 12 U.S.C. § 2074.

5. As used in this section "*agricultural production purpose*" means a purpose related to the production of agricultural products. "*Agricultural products*" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products thereof, and any and all products produced on farms.

[C81, §535.12]

89 Acts, ch 257, §26

Referred to in §524.103

#### **535.13 Definition.**

As used in this chapter, unless the context otherwise requires, "*agricultural purpose*" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing or manufacture of agricultural products by a person who cultivates, plants, propagates or nurtures the agricultural products. "*Agricultural products*" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

[C81, §535.13; 82 Acts, ch 1153, §7]

Referred to in §535.2, 558.70, 615.1, 615.3, 628.28, 654.20, 655A.9

#### **535.14 Prompt crediting of payment on loans secured by residential real property.**

A lender is subject to the requirements set forth in section 537.3206, regarding the prompt crediting of payments, with respect to a loan secured by a lien or security interest

on owner-occupied residential real property. For purposes of this section, “residential real property” means residential real property as defined in section 535B.1.

99 Acts, ch 15, §2

**535.15** Repealed by 99 Acts, ch 73, § 1.

**535.16 Delivery of copies of debt documents.**

A lender or other secured party shall provide to a debtor, at the time a document relating to a debt is signed, a copy of the document signed by the debtor. Receipt of a copy required by this section may be acknowledged anywhere on the document or on a separate acknowledgment of receipt.

A lender or other secured party shall provide to a debtor copies of all documents signed by the debtor relating to the debt at any other time, upon request, for a charge that shall not exceed the reasonable cost of copying the document.

86 Acts, ch 1081, §1; 87 Acts, ch 163, §1; 88 Acts, ch 1023, §1

**535.17 Requirements of credit agreements — statute of frauds — modifications.**

1. A credit agreement is not enforceable in contract law by way of action or defense by any party unless a writing exists which contains all of the material terms of the agreement and is signed by the party against whom enforcement is sought.

2. Unless otherwise expressly agreed in writing, a modification of a credit agreement which occurs after the person asserting the modification has been notified in writing that oral or implied modifications to the credit agreement are unenforceable and should not be relied upon, is not enforceable in contract law by way of action or defense by any party unless a writing exists containing the material terms of the modification and is signed by the party against whom enforcement is sought. This notification can be included among the terms of a credit agreement, can be included on a separate form or together with other disclosures that are provided when the agreement is made, or can be given wholly apart from the agreement and at any time after the agreement has been made. To be effective, the notification and its language must be conspicuous. A person who gives a notification is bound by it to the same extent as the person notified. A notification with respect to any credit agreement is effective with respect to all other credit agreements then in effect between the parties if the notification conspicuously so provides. When a modification is required by this section to be in writing and signed, such requirement cannot be modified except by clear and explicit language in a writing signed by the person against whom the modification is to be enforced.

3. A notification referred to in subsection 2 in the following form in boldface, ten point type, complies with the requirements of this section:

**IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.**

4. Notwithstanding subsections 1 and 2, a credit agreement or modification of a credit agreement which is not in writing, but which is valid in other respects, is enforceable if the party against whom enforcement is sought admits in court that the agreement or modification was made, but no agreement or modification is enforceable under this subsection beyond the terms admitted.

5. For purposes of this section, unless the context otherwise requires:

a. “Action” includes petition, complaint, counterclaim, cross-claim, or any other pleading or proceeding to enforce affirmatively any right or duty or to recover damages for the nonperformance of any duty.

b. “Contract” means a promise or set of promises for the breach of which the law would give a remedy or the performance of which the law would recognize a duty, and includes

promissory obligations based on instruments and similar documents or on the contract doctrine of promissory estoppel.

c. “*Credit agreement*” means any contract made or acquired by a lender to loan money, finance any transaction, or otherwise extend credit for any purpose, and includes all of the terms of the contract. “*Credit agreement*” does not mean a contract to loan money, finance a transaction, or otherwise extend credit by means of or pursuant to a credit card, as defined in section 537.1301, subsection 17, or pursuant to open-end credit, as defined in section 537.1301, subsection 31, or pursuant to a home equity line of credit, as defined in section 535.10 whether the loan, financing, or credit is for consumer or business purposes or a consumer rental purchase agreement as defined in section 537.3604, subsection 8.

d. “*Defense*” includes setoff, recoupment, and any basis or means for barring or reducing liability or obligation on any claim.

e. “*Lender*” means any person primarily in the business of loaning money, or financing sales, leases, or other provision of property or services.

f. “*Modification*” includes change, addition, waiver, rescission, and any other variation of any kind whether expressly made or implied by, or inferred from, conduct of any kind.

6. This section shall be interpreted and applied purposively to ensure that contract actions and defenses on credit agreements are supported by clear and certain written proof of the terms of such agreements to protect against fraud and to enhance the clear and predictable understanding of rights and duties under credit agreements.

7. This section entirely displaces principles of common law and equity that would make or recognize exceptions to or otherwise limit or dilute the force and effect of its provisions concerning the enforcement in contract law of credit agreements or modifications of credit agreements. However, this section does not displace any additional or other requirements of contract law, which shall continue to apply, with respect to the making of enforceable contracts, including the requirement of consideration or other basis of validation.

8. This section does not apply to a credit agreement made primarily for a personal, family, or household purpose where the credit extended is twenty thousand dollars or less.

90 Acts, ch 1176, §1

#### **535.18 Consumer credit terms for service members — enforcement.**

The superintendent of banking and the superintendent of credit unions, as applicable, shall have the authority to enforce the consumer protection provisions of 10 U.S.C. § 987 concerning limitations on terms of consumer credit extended to service members and their dependents.

2010 Acts, ch 1171, §5