CHAPTER 524

BANKS

Referred to in §12C.6A, §12C.13, §216.10, §261A.19, §331.602, §422.11, §423.2, §445.5, §490.1701, §501A.601, §527.4, §533.301, §535.2, §535.8, §535C.2, §536A.24, §536C.3, §537.1301, §537.2301, §537.6105, §537.6201, §546.3, §669.14

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DIVISION I

GENERAL PROVISIONS

524.101 Short title.

This chapter shall be known and may be cited as the *"Iowa Banking Act"*.
[C71, 73, 75, 77, 79, 81, §524.101]
84 Acts, ch 1067, §41

524.102 Statement of intent.

The general assembly declares as its purpose in adopting **this chapter** to provide for:

1. The safe and sound conduct of the business of banking.
2. The conservation of the assets of state banks.
3. The maintenance of public confidence in state banks.
4. The protection of the interests of depositors, creditors, shareholders and of the interest of the public in a sound and strong banking system.
5. The opportunity for state banks to be competitive with each other and with banks existing under the laws of other states and the United States.
6. The opportunity for state banks to effectively serve the convenience and banking needs of their depositors, borrowers, and other customers and to participate in and promote the economic progress of Iowa and of the United States.
7. The opportunity for the management of a state bank to exercise its business judgment, in conducting the affairs of the state bank, to the extent compatible with, and subject to the purposes of **this chapter**.
8. The delegation to the superintendent of adequate rulemaking power and administrative discretion, in order that the supervision and regulation of state banks may be flexible and readily responsive to changes in economic conditions and changes in banking and fiduciary practices.
9. The simplification and modernization of the law governing the business of banking and the exercise of certain fiduciary powers.

[C71, 73, 75, 77, 79, 81, §524.102]

524.103 Definitions.

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

1. *"Account"* means any account with a state bank and includes a demand, time or savings deposit account or any account for the payment of money to a state bank.
2. *"Administrator"* means the person designated in **section 537.6103**.
3. *"Aggregate capital"* means the sum of capital, surplus, undivided profits, and reserves as of the most recent calculation date.
4. *"Agreement for the payment of money"* means a monetary obligation, other than an obligation in the form of an evidence of indebtedness or an investment security; including, but not limited to, amounts payable on open book accounts receivable and executory contracts and rentals payable under leases of personal property.
5. *"Agricultural credit corporation"* means as defined in **section 535.12, subsection 4**.
6. *"Articles of incorporation"* means the original or restated articles of incorporation and all amendments thereto and includes articles of merger. *"Articles of incorporation"* also means the original or restated articles of organization and all amendments including articles of merger if a state bank is organized as a limited liability company under **this chapter**.
7. *"Assets"* means all the property and rights of every kind of a state bank.
8. *"Bank"* means a corporation or limited liability company organized under **this chapter** or 12 U.S.C. §21.
9. *"Bankers' bank"* means a bank which is organized under the laws of any state or under federal law, and whose shares are owned exclusively by other banks or by a bank holding company whose shares are owned exclusively by other banks, except for directors' qualifying shares when required by law, and which engages exclusively in providing services for depository institutions and officers, directors and employees of those depository institutions.
10. *"Board of directors"* means the board of directors of a state bank as provided in **section 524.601**. For a state bank organized as a limited liability company under **this chapter**, *"board of directors"* means a board of directors or board of managers as designated by the limited liability company in its articles of organization or operating agreement.
11. *"Borrower"* means a person named as a borrower or debtor in a loan or extension of credit, or any other person, including a drawer, endorser, or guarantor, deemed to be a borrower under **section 524.904, subsection 3**.
12. *"Business of banking"* means the business generally done by banks.
13. *"Calculation date"* means the most recent of the following:

a. The date the bank's statement of condition is required to be filed pursuant to **section 524.220, subsection 2**.

b. The date an event occurs that reduces or increases the bank's aggregate capital by ten percent or more.

c. As the superintendent may direct.

14. *"Capital"* means the sum of the par value of the preferred and common shares of a state bank issued and outstanding.

15. *"Capital structure"* means the capital, surplus, and undivided profits of a state bank and shall include an amount equal to the sum of any capital notes and debentures issued and outstanding pursuant to **section 524.404**.

16. *"Chief executive officer"* means the person designated by the board of directors to be responsible for the implementation of and adherence to board policies and resolutions by all officers and employees of the bank.

17. *a.* *"Contractual commitment to advance funds"* means a bank's obligation to do either of the following:

(1) Advance funds under a standby letter of credit or other similar arrangement.

(2) Make payment, directly or indirectly, to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed upon terms of the customer's contract with a third person, or to make payments upon some other stated condition.

b. The term does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw on the issuer, that do not guarantee payment, and that do not provide for payment in the event of a default by a third person.

18. *"Control"* means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

a. Owns, controls, or has the power to vote fifty percent or more of any class of voting securities or membership interests of another person.

b. Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.

c. Has the power to exercise a controlling influence over the management or policies of another person.

19. *"Customer"* means a person with an account or other contractual arrangement with a state bank.

20. *"Director"* means a member of the board of directors and includes a manager of a state bank organized as a limited liability company under **this chapter**.

21. *"Evidence of indebtedness"* means a note, draft or similar negotiable or nonnegotiable instrument.

22. *"Executive officer"* means a person who participates or has authority to participate, other than in the capacity of a director or manager, in major policymaking functions of a state bank, whether or not the officer has an official title, whether or not such a title designates the officer as an assistant, or whether or not the officer is serving without salary or other compensation. The chief executive officer, chairperson of the board, the president, every vice president, and the cashier of a state bank are deemed to be executive officers, unless such an officer is excluded, by resolution of the board of directors of a state bank or by the bylaws of the state bank, from participation, other than in the capacity of a director, in major policymaking functions of the state bank, and the officer does not actually participate in the major policymaking functions. All officers who serve on a board of directors are deemed to be executive officers, except as provided for in **section 524.701, subsection 3**.

23. *"Fiduciary"* means an executor, administrator, guardian, conservator, receiver, trustee or one acting in a similar capacity.

24. *"Insolvent"* means the inability of a state bank to pay its debts and obligations as they become due in the ordinary course of its business. A state bank is also considered to be insolvent if the ratio of its capital, surplus, and undivided profits to assets is at or close to zero or if its assets are of such poor quality that its continued existence is uncertain.

25. *"Insured bank"* means a state bank the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act.

26. *"Manager"* means a person designated by the members to manage a state bank organized as a limited liability company under **this chapter** as provided in the articles of organization or an operating agreement and may include a member of the board of directors.

27. *"Member"* means a person with a membership interest in a state bank organized as a limited liability company or incorporated as a mutual corporation under **this chapter**.

28. *"Member vote"* means one vote for each one hundred dollars, or fraction thereof, of the withdrawal value of a member's account with respect to a mutual corporation.

29. *"Membership interest"* means a member's share of the profits and losses, the right to receive distributions of assets, and any right to vote or participate in management of a state bank organized as a limited liability company under **this chapter** or of a state bank incorporated as a mutual corporation under **this chapter**.

30. *"Municipal corporation"* means an incorporated city.

31. *"Mutual bank holding company"* means a bank holding company that is a mutual corporation or that owns or controls a mutual corporation.

32. *"Mutual corporation"* means a corporation that is incorporated on a mutual ownership basis under **this chapter** or converted to become subject to **this chapter** and is not authorized to issue capital stock.

33. *"Officer"* means chief executive officer, executive officer, or any other administrative official of a bank elected by the bank's board of directors to carry out any of the bank's operating rules and policies.

34. *"Operations subsidiary"* means a wholly owned corporation incorporated and controlled by a bank that performs functions which the bank is authorized to perform.

35. *"Person"* means as defined in **section 4.1**.

36. *"Reserves"* means the amount of the allowance for loan and lease losses of a state bank.

37. *"Sale of federal funds"* means any transaction between depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at federal reserve banks, or from credits to new or existing deposit balances due from a correspondent depository institution.

38. *"Shareholder"* means one who is a holder of record of shares in a state bank. If a state bank is organized as a limited liability company under **this chapter**, *"shareholder"* means a member of the limited liability company. If a state bank is incorporated as a mutual corporation under **this chapter**, *"shareholder"* means a member of the mutual corporation.

39. *"Shares"* means the units into which the proprietary interests in a state bank incorporated as a stock corporation are divided, including any membership interests of a state bank organized as a limited liability company under **this chapter**.

40. *"Standby letter of credit"* means a letter of credit, or similar arrangement, that represents an obligation to the beneficiary on the part of the issuer to do any of the following:

a. Repay money borrowed by or advanced to or for the account of the account holder.

b. Make payment on account of any indebtedness undertaken by the account holder.

c. Make payment on account of any default by the account holder in the performance of an obligation.

41. *"State bank"* means any bank incorporated pursuant to the provisions of **this chapter** after January 1, 1970, and any *"state bank"* incorporated pursuant to the laws of this state and doing business as such on January 1, 1970, or a bank organized as a limited liability company or a mutual corporation under **this chapter**.

42. *"Stock corporation"* means a corporation which is authorized to issue capital stock.

43. *"Superintendent"* means the superintendent of banking of this state.

44. *"Supervised financial organization"* as defined and used in the Iowa consumer credit code, **chapter 537**, includes a person organized pursuant to **this chapter**.

45. *"Surplus"* means the aggregate of the amount originally paid in as required by **section 524.401, subsection 3**, any amounts transferred to surplus pursuant to **section 524.405** and any amounts subsequently designated as such by action of the board of directors of the state bank.

46. *"Trust company"* means a business organization which is authorized to engage in trust business pursuant to **section 524.1005**. A bank lawfully exercising trust powers under the

laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.

47. *"Undivided profits"* means the accumulated undistributed net profits of a state bank, including any residue from the fund established pursuant to **section 524.401, subsection 4**, after:

a. Payment or provision for payment of taxes and expenses of operations.

b. Transfers to reserves allocated to a particular asset or class of assets.

c. Losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated therefor.

d. Transfers to surplus and capital.

e. Amounts declared as dividends to shareholders.

48. *"Unincorporated area"* means a village within which a state bank or national bank has its principal place of business.

[C71, 73, 75, 77, 79, 81, §524.103]

85 Acts, ch 252, §32; 89 Acts, ch 257, §2, 3; 90 Acts, ch 1228, §1; 95 Acts, ch 148, §1 – 3; 96 Acts, ch 1056, §1; 2003 Acts, ch 44, §114; 2004 Acts, ch 1141, §47, 48; 2005 Acts, ch 3, §86; 2007 Acts, ch 88, §2; 2012 Acts, ch 1017, §1 – 4, 18, 104; 2012 Acts, ch 1023, §157

Referred to in **§12.61**, **§12C.13**, **§252I.1**, **§421.17A**, **§422.61**, **§453A.8**, **§521C.4**, **§524.109**, **§524.904**, **§535B.6A**, **§536.7A**, **§537.7103**, **§633.89**

524.104 Rules of construction.

In the interpretation and construction of **this chapter**:

1. Transactions or acts validly entered into or performed before July 1, 1995, and the rights, duties and interests flowing from them remain valid on and after July 1, 1995, and may be completed or terminated according to their terms and as permitted by any statute repealed or amended by **this chapter**, as though such repeal or amendment had not occurred.

2. All individuals who, on July 1, 1995, hold any office under a provision of law repealed by **this chapter**, and which offices are continued by **this chapter** shall continue to hold such offices according to their former tenure.

[C71, 73, 75, 77, 79, 81, §524.104]

95 Acts, ch 148, §4

524.105 Effect on existing banks.

1. The corporate existence of a state bank existing and operating on July 1, 1995, is not affected by the amendment of **this chapter**.

2. All state banks are subject to the provisions and requirements of **this chapter** in every particular, and all national banks, now or hereafter doing business in this state, are subject to the provisions of **this chapter**, to the extent applicable, from July 1, 1995.

[C71, 73, 75, 77, 79, 81, §524.105]

95 Acts, ch 148, §5

Referred to in **§680.8**

524.106 Repealed by 95 Acts, ch 148, §135.

524.107 Persons authorized to engage in banking business — educational bank.

1. A person, other than a state bank which is subject to the provisions of **this chapter** and a national bank authorized by the laws of the United States to engage in the business of receiving money for deposit, and except as provided in **subsection 2**, shall not engage in this state in the business of receiving money for deposit, transact the business of banking, or establish in this state a place of business for such purpose.

2. A person doing business in this state shall not use the words "bank" or "trust" or use any derivative, plural, or compound of the words "bank", "banking", "bankers", or "trust" in any manner which would tend to create the impression that the person is authorized to engage in the business of banking or to act in a fiduciary capacity, except a state bank authorized to do so by **this chapter** or a bank authorized to do so by the laws of another state, a national bank to the extent permitted by the laws of the United States, a bank holding company as defined in **section 524.1801**, a savings and loan holding company as defined in 12 U.S.C. §1467a, or a federal association to the extent permitted by the laws of the United States, or,

insofar as the word "trust" is concerned, an individual permissibly serving as a fiduciary in this state, pursuant to **section 633.63**, or, insofar as the words "trust" and "bank" are concerned, a nonresident corporate fiduciary permissibly serving as a fiduciary in this state pursuant to **section 633.64**.

3. Notwithstanding **subsections 1 and 2**, an organization formed for educational purposes in association with an accredited elementary or secondary school which engages in the receipt of deposits may use the words "educational bank", the use of which is otherwise restricted in **subsection 2**, and such an educational bank is not a bank within the meaning or scope of regulation of **this chapter**.

[C97, §1862, 1889; S13, §1889, 1889-i; C24, 27, 31, 35, 39, §**9151, 9203, 9258, 9259, 9296;** C46, 50, 54, 58, 62, 66, §524.24, 527.2, 528.50, 528.52, 532.13; C71, 73, 75, 77, 79, 81, §524.107]

89 Acts, ch 257, §4; 89 Acts, ch 319, §80; 95 Acts, ch 148, §6; 96 Acts, ch 1056, §2; 2008 Acts, ch 1160, §1; 2012 Acts, ch 1017, §105; 2014 Acts, ch 1001, §3

Referred to in **§524.1005**, **§524.1603**

Subsections 1 and 2 amended

524.108 Applicability of safe deposit provisions.

The provisions of **sections 524.809 to 524.812** shall apply, to the extent applicable, to any person engaged in this state in the business of leasing safe deposit boxes for the storage of property.

[C71, 73, 75, 77, 79, 81, §524.108]

524.109 Bankers' bank authorized — authority to hold shares of bankers' bank.

1. A state bank may be organized under **this chapter** as a bankers' bank. The bankers' bank is subject to all rights, privileges, duties, restrictions, penalties, liabilities, conditions and limitations applicable to a state bank generally, except as limited in the definition of bankers' bank contained in **section 524.103, subsection 9**. However, a bankers' bank shall have the same powers as those granted by federal law and regulation to a national bank organized as a bankers' bank under 12 U.S.C. §27.

2. A state bank shall have the power to acquire and hold the shares in one or more bankers' banks or bank holding companies which own a bankers' bank in a total amount not to exceed five percent of the state bank's aggregate capital. A state bank shall not own, directly or indirectly, more than five percent of any class of voting shares of a bankers' bank.

85 Acts, ch 252, §33; 95 Acts, ch 148, §7

DIVISION II

DIVISION OF BANKING

524.201 Superintendent of banking.

1. The governor shall appoint, subject to confirmation by the senate, a superintendent of banking. The appointee shall be selected solely with regard to qualification and fitness to discharge the duties of office, and a person shall not be appointed who has not had at least five years' experience as an executive officer in a bank.

2. The superintendent shall have an office at the seat of government. The regular term of office shall be four years beginning and ending as provided by **section 69.19**.

[C24, 27, 31, 35, 39, §**9130, 9131;** C46, 50, 54, 58, 62, 66, §524.1, 524.2; C71, 73, 75, 77, 79, 81, §524.201]

95 Acts, ch 148, §8; 2004 Acts, ch 1141, §2

Referred to in **§535D.3**, **§546.3**

Confirmation, see **§2.32**

524.202 Superintendent — salary.

The superintendent shall receive a salary to be fixed by the governor.

[C24, 27, 31, 35, 39, §**9137;** C46, 50, 54, 58, 62, 66, §524.7; C71, 73, 75, 77, 79, 81, §524.202]

95 Acts, ch 148, §9

524.203 Superintendent — vacancy.

If the office of the superintendent of banking is vacant, the chief of the bank bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent. If the chief of the bank bureau is unable to serve, the chief of the finance bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent. If both the chief of the bank bureau and the chief of the finance bureau are unable to serve, the chief of the professional licensing and regulation bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent.

[C24, 27, 31, 35, 39, §**9133;** C46, 50, 54, 58, 62, 66, §524.3; C71, 73, 75, 77, 79, 81, §524.203]

2004 Acts, ch 1141, §3; 2008 Acts, ch 1160, §2

524.204 Deputy superintendent of banking.

The superintendent may appoint an employee of the division of banking as deputy to perform the duties of the superintendent during the absence or inability of the superintendent to act. Any deputy so appointed shall be removable at the pleasure of the superintendent.

[C24, 27, 31, 35, 39, §**9136, 9137;** C46, 50, 54, 58, 62, 66, §524.6, 524.7; C71, 73, 75, 77, 79, 81, §524.204]

95 Acts, ch 148, §10; 2004 Acts, ch 1141, §4

524.205 State banking council.

1. The state banking council shall consist of the superintendent, who shall be an ex officio member and chairperson, and six other members, appointed by the governor, who shall be appointed, where practical, from various parts of the state. Provided, however, that in no event shall more than five members of such council be engaged in the business of banking in any executive capacity.

2. The terms of office for members of the state banking council, other than the superintendent, shall be four-year staggered terms. Each member shall hold office for the term for which the member is appointed or until a successor is appointed.

3. A member of the state banking council, other than the superintendent, shall not receive a salary but is entitled to reimbursement for actual expenses incurred by the member in connection with the member's duties. Each member of the council may also be eligible to receive compensation as provided in **section 7E.6**.

4. The state banking council shall act in an advisory capacity concerning matters submitted to the council by the superintendent pertaining to the conduct of the administration of **this chapter**.

5. The state banking council shall meet at least once each calendar quarter on such date and at such place as the council may decide, and shall meet at such other times as may be deemed necessary by the superintendent or a majority of the council members.

[C27, 31, 35, §9154-a1, -a2, -a3, -a4, -a7, -a8; C39, §**9154.04 – 9154.07, 9154.10, 9154.11;** C46, 50, 54, 58, 62, 66, §525.1 – 525.4, 525.7, 525.8; C71, 73, 75, 77, 79, 81, §524.205]

86 Acts, ch 1245, §747; 2004 Acts, ch 1141, §5

524.206 Banking division created.

The banking division is created within the department of commerce.

[C71, 73, 75, 77, 79, 81, §524.206]

86 Acts, ch 1245, §748

524.207 Expenses of the banking division — fees.

1. Except as otherwise provided by statute, all expenses required in the discharge of the duties and responsibilities imposed upon the banking division of the department of commerce, the superintendent, and the state banking council by the laws of this state shall be paid from fees provided by the laws of this state and appropriated by the general assembly from the department of commerce revolving fund created in **section 546.12**. All of these fees are payable to the superintendent. The superintendent shall pay all the fees and other moneys received by the superintendent to the treasurer of state within the time required

by **section 12.10** and the fees and other moneys shall be deposited into the department of commerce revolving fund created in **section 546.12**.

2. The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state and each separate duty shall be fiscally self-sustaining.

3. The banking division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for bank or licensee examinations or investigations and directly result from examinations or investigations of banks or licensees. The amounts necessary to fund the excess examination or investigation expenses shall be collected from banks and licensees being regulated, and the collections shall be treated as repayment receipts as defined in **section 8.2**. The division shall notify in writing the legislative services agency and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed as provided in **section 546.12, subsection 2**, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.

4. All fees and moneys collected shall be deposited into the department of commerce revolving fund created in **section 546.12** and expenses required to be paid under **this section** shall be paid from moneys in the department of commerce revolving fund and appropriated for those purposes.

[C24, 27, 31, 35, 39, §**9144, 9145, 9149;** C46, 50, 54, 58, 62, 66, §524.16, 524.17, 524.22; C71, 73, 75, 77, 79, 81, §524.207]

86 Acts, ch 1246, §616; 87 Acts, ch 234, §435; 90 Acts, ch 1247, §14; 91 Acts, ch 260, §1243; 93 Acts, ch 131, §22; 94 Acts, ch 1107, §85; 2003 Acts, ch 35, §45, 49; 2004 Acts, ch 1141, §6; 2009 Acts, ch 181, §103

524.208 Examiners and other employees.

The superintendent may appoint examiners and other employees as the superintendent deems necessary to the proper discharge of the duties imposed upon the superintendent by the laws of this state. Pay plans shall be established for employees, other than clerical employees or employees of the professional licensing and regulation bureau of the banking division, who examine the accounts and affairs of state banks and who examine the accounts and affairs of other persons, subject to supervision and regulation by the superintendent, which are substantially equivalent to those paid by the federal deposit insurance corporation and other federal supervisory agencies in this area of the United States.

[C24, 27, 31, 35, 39, §**9136, 9137;** C46, 50, 54, 58, 62, 66, §524.6, 524.7; C71, 73, 75, 77, 79, 81, §524.208]

86 Acts, ch 1245, §749; 2004 Acts, ch 1141, §7; 2006 Acts, ch 1177, §32

524.209 Expenses.

The superintendent, examiners, and other employees of the banking division shall be entitled to receive reimbursement for expenses incurred in the performance of their duties. The superintendent, and when specifically authorized by the superintendent, examiners and other employees of the banking division, shall be entitled to receive reimbursement for expenses incurred while attending conventions, meetings, conferences, schools, or seminars relating to the performance of their duties, and such expenses shall be paid by the treasurer of state on warrants drawn by the director of the department of administrative services.

[C24, 27, 31, 35, 39, §**9144;** C46, 50, 54, 58, 62, 66, §524.16; C71, 73, 75, 77, 79, 81, §524.209]

2003 Acts, ch 145, §286; 2004 Acts, ch 1141, §8

524.210 Insurance and surety bonds.

The superintendent shall acquire good and sufficient bond in a company authorized to do business in this state insuring the faithful performance of examiners and all other employees of the banking division and insuring against any liability which may accrue in the case of the

loss of any property of a state bank, of a customer of a state bank, or of any other person in the course of any examination, investigation, or other function required or allowed by the laws of this state. The superintendent shall be bonded in accordance with the provisions of **chapter 64**.

[C24, 27, 31, 35, 39, §**9138, 9139;** C46, 50, 54, 58, 62, 66, §524.8, 524.9; C71, 73, 75, 77, 79, 81, §524.210]

2004 Acts, ch 1141, §9

524.211 Prohibitions relating to banking division personnel.

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, or any person or entity affiliated with a state-chartered bank, unless they do not personally participate in the examination, oversight, or official review concerning the regulation of the bank.

2. The superintendent, general counsel, examiners, and other employees assigned to the finance bureau of the banking division are prohibited from obtaining a loan of money or property from a person or entity licensed pursuant to **chapter 533A**, **533D**, **536**, or **536A**, or a person or entity affiliated with such licensee.

3. The superintendent, general counsel, examiners, and other employees of the banking division, who have credit relations with a person or entity licensed or registered pursuant to **chapter 535B**, **535D**, or **536C**, are prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the licensee or registrant.

4. Examiners and other employees assigned to the bank bureau of the banking division who have credit relations with a person or entity licensed pursuant to **chapter 533A**, **533D**, **536**, or **536A**, or with a person or entity affiliated with such licensee, are prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the licensee.

5. An employee of the banking division, other than the superintendent or a member of the state banking council or one of the boards in the professional licensing and regulation bureau of the division, shall not perform any services for, and shall not be a shareholder, member, partner, owner, director, officer, or employee of, any enterprise, person, or affiliate subject to the regulatory purview of the banking division.

6. For the purposes of **this section** and **section 524.212**, an affiliate of a person other than a state bank shall include any corporation, trust, estate, association or other similar organization:

a. Of which such person, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty percent of the number of shares voted for the election of its directors, trustees, or other individuals exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees or other individuals exercising similar functions.

b. Of which control is held, directly or indirectly, through share ownership or in any other manner, by the shareholders of such person who own or control either a majority of the shares of such person or more than fifty percent of the number of shares voted for the election of directors of such person at the preceding election or by trustees for the benefit of the shareholders of any such person.

c. Of which a majority of its directors, trustees, or other individuals exercising similar functions are directors of any one such person.

d. Which owns or controls, directly or indirectly, either a majority of the voting shares of such person or more than fifty percent of the total number of shares voted for the election of directors of such person at the preceding election, or controls in any manner the election of a majority of the directors of such person, or for the benefit of whose shareholders or members all or substantially all of the outstanding voting shares of such person is held by trustees.

7. The superintendent, examiners, or other employees who are convicted of a felony while

holding such position shall be immediately discharged from employment and shall be forever disqualified from holding any position in the banking division.

[C97, §1875, 1876; SS15, §1875; C24, 27, 31, 35, 39, §**9146;** C46, 50, 54, 58, 62, 66, §524.18; C71, 73, 75, 77, 79, 81, §524.211; 81 Acts, ch 172, §1]

95 Acts, ch 148, §11 – 13; 96 Acts, ch 1056, §3; 2004 Acts, ch 1141, §10; 2006 Acts, ch 1177, §33; 2007 Acts, ch 88, §3; 2008 Acts, ch 1160, §3; 2011 Acts, ch 102, §1; 2012 Acts, ch 1017, §106

Referred to in **§524.1611**

524.212 Prohibition against disclosure of regulatory information.

1. The superintendent, members of the state banking council, general counsel, examiners, or other employees of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in **section 524.217, subsection 2**, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of **chapter 533A**, **533C**, **536**, or **536A**, any affiliate of any state bank, or an affiliate of a person subject to the provisions of **chapter 533A**, **533C**, **536**, or **536A**, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in **section 524.215, subsection 2**, paragraphs "*a*", "*b*", "*c*", "*e*", and "*f*".

2. The superintendent may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, from other local, state, federal, and international regulatory agencies, the conference of state bank supervisors and its affiliates or subsidiaries, the American association of mortgage regulators and its affiliates or subsidiaries, and the national association of consumer credit administrators and its affiliates or subsidiaries, and shall maintain as confidential and privileged any such document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information. With respect to documents, materials, or other information that is shared or stored electronically, the superintendent is authorized to take any necessary steps to ensure the division's information technology systems comply with the information technology security requirements established by any of the regulatory agencies or associations of state regulatory agencies described in **this section**.

[C31, 35, §9146-c1; C39, §**9146.1;** C46, 50, 54, 58, 62, 66, §524.19; C71, 73, 75, 77, 79, 81, §524.212]

95 Acts, ch 148, §14; 2003 Acts, ch 96, §40, 42; 2004 Acts, ch 1141, §11; 2008 Acts, ch 1031, §56; 2008 Acts, ch 1160, §4; 2011 Acts, ch 102, §2

Referred to in **§524.211**, **§524.1611**

524.213 Duties and powers of superintendent.

The superintendent shall have general control, supervision and regulation of all state banks and shall be charged with the administration, interpretation, and execution of the laws, rules, and regulations of this state relating to banks and banking and with such other duties and responsibilities as are imposed upon the superintendent by the laws of this state. The superintendent shall have power to adopt and promulgate such rules and regulations as necessary to carry out and enforce, properly and effectively, the provisions of **this chapter** and **chapter 12C** applicable to banks.

[C24, 27, 31, 35, 39, §**9140;** C46, 50, 54, 58, 62, 66, §524.10; C71, 73, 75, 77, 79, 81, §524.213]

2002 Acts, ch 1096, §15, 17; 2010 Acts, ch 1028, §6

524.214 Subpoena — contempt.

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.

2. Whenever any person subpoenaed pursuant to **subsection 1** of **this section** neglects

or refuses to obey the terms of such subpoena, to produce books or papers or to give testimony, as required, the superintendent may apply to the district court of Polk county for the enforcement of such subpoena or the issuance of an order compelling such compliance as the court may direct.

3. The refusal of any person to obey an order of the district court, issued pursuant to **subsection 2** of **this section**, without reasonable cause, shall be considered a contempt of that court.

[C97, §1877; S13, §1871; C24, 27, 31, 35, 39, §**9226, 9236;** C46, 50, 54, 58, 62, 66, §528.20, 528.30; C71, 73, 75, 77, 79, 81, §524.214]

2004 Acts, ch 1141, §12; 2007 Acts, ch 88, §4

Referred to in **§524.217**

524.215 Records of division of banking.

1. All records of the division of banking shall be public records subject to the provisions of **chapter 22**, except that all papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state shall not be public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

2. The superintendent, members of the state banking council, examiners, or other employees of the banking division shall not be subpoenaed in any cause or proceeding to give testimony concerning information relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state, and the records of the banking division which relate specifically to the supervision and regulation of any such state bank or other such person shall not be offered in evidence in any court or subject to subpoena by any party except, where relevant:

a. In such actions or proceedings as are brought by the superintendent.

b. In any matter in which an interested and proper party seeks review of a decision of the superintendent.

c. In any action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

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

e. 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 state bank funds by a director, officer, or employee of the state bank.

f. 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.

[C31, 35, §9146-c1; C39, §**9146.1;** C46, 50, 54, 58, 62, 66, §524.19; C71, 73, 75, 77, 79, 81, §524.215]

95 Acts, ch 148, §15; 96 Acts, ch 1056, §4; 2004 Acts, ch 1141, §13; 2007 Acts, ch 88, §5, 6

Referred to in **§524.212**

524.215A Preservation of division of banking records.

1. The division of banking may preserve records, papers, or documents kept by the division or in the possession or custody of the division by any of the following means:

a. Photographing or microphotographing, or otherwise reproducing upon film.

b. Preserving in any electronic medium or format capable of being read or scanned by computer and capable of being reproduced by printing or by any other form of reproduction of electronically stored data.

2. Photographs, microphotographs, or photographic films or copies thereof, or reproductions of electronically stored data, created pursuant to **subsection 1** shall be deemed to be an original record for all purposes, including introduction in evidence in all state and federal courts or administrative hearings, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

3. Photographs, microphotographs, or photographic films or copies thereof, or reproductions of electronically stored data, created pursuant to **subsection 1** shall be preserved in such manner as the division prescribes, and the original photographs, microphotographs, photographic films, copies, and reproductions may be destroyed or otherwise disposed of as the division directs.

4. The division of banking may adopt a record retention policy authorizing the division to destroy communications received by electronic mail that are more than six months old.

2007 Acts, ch 170, §1; 2010 Acts, ch 1028, §7

524.216 Annual report of superintendent.

1. The superintendent shall make a report in writing annually to the governor in the manner and within the time required by **chapter 7A**.

2. In addition to the matters required by **chapter 7A**, the annual report of the superintendent shall contain:

a. A summary of applications approved or denied by the superintendent pursuant to **this chapter** since the superintendent's last previous report.

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

c. A statement of the receipts and disbursements of funds of the superintendent during the fiscal year ending on the preceding June 30 and of the funds on hand on such June 30.

d. Such other information as the superintendent may deem appropriate and advisable to fairly disclose the discharge of the duties imposed upon the superintendent by **this chapter**.

[C97, §1881; C24, 27, 31, 35, 39, §**9148;** C46, 50, 54, 58, 62, 66, §524.21; C71, 73, 75, 77, 79, 81, §524.216]

2004 Acts, ch 1141, §14; 2007 Acts, ch 88, §7; 2008 Acts, ch 1160, §5; 2012 Acts, ch 1017, §107

524.217 Examinations.

1. The superintendent may do all of the following:

a. Make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each two-year period by either the banking division or the appropriate federal banking agency. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe.

b. Make or cause to be made such limited examinations at such times and with such frequency as the superintendent deems necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of **this chapter**.

c. Make or cause to be made an examination of any corporation in which the state bank or trust company owns shares.

d. Upon application to and order of the district court of Polk county, make or cause to be made an examination of any person having business transactions or a relationship with any state bank or trust company when such examination is deemed necessary and advisable in order to determine whether the capital of the state bank or trust company is impaired or whether the safety of its deposits has been imperiled. The fee for any such examination shall be paid by the state bank or trust company.

e. To the extent necessary for the purpose of any examination provided for by **this section** and **section 524.1105**, examine all relevant books, records, accounts, and documents and compel the production of the same in the manner prescribed by **section 524.214**.

2. The superintendent may furnish to the federal deposit insurance corporation, the federal reserve system, the United States department of the treasury, the national credit union administration, the federal home loan bank, and financial institution regulatory authorities of other states, or to any official or supervising examiner of such regulatory

authorities, a copy of the report of any or all examinations made of any state bank and of any affiliate of a state bank.

3. A copy of the report of each examination of a state bank or trust company shall be transmitted by the superintendent to the board of directors of the state bank or trust company except to the extent that the report of any such examination may be confidential to the superintendent, and each member of the board of directors shall furnish to the superintendent, on forms to be supplied by the superintendent, a statement that the member has read the report of examination.

4. All reports of examinations, including any copies of such reports, in the possession of any person other than the superintendent or employee of the banking division, including any state bank or any agency to which any report of such examination may be furnished under **subsection 2**, shall be confidential communications, shall not be subject to subpoena from such persons, and shall not be published or made public by such persons.

5. The report of examination of any affiliate or of any person examined as provided for in **subsection 1**, paragraph "*c*" or "*d*", shall not be transmitted by the superintendent to any such affiliate or person or to any state bank or trust company or to the board of directors of any state bank or trust company unless authorized or requested by such affiliate or person.

6. The superintendent may enter into contractual agreements with other state regulators of financial institutions to share examiners or to assist in each state's respective examinations. The division of banking shall be reimbursed for any costs incurred when providing services to other states pursuant to **this subsection**. Any division of banking personnel assisting another state with its examination shall be covered by the provisions of the other state's tort claims act, to the extent permitted by the laws of the other state. If the law of the other state does not extend coverage to the division of banking personnel working on the other state's examination, the provisions of **chapter 669** shall apply.

[R60, §1637; C73, §1571; C97, §1873; S13, §1873; C24, 27, 31, 35, §9231, 9283-g4; C39, §**9231, 9283.47;** C46, 50, 54, 58, 62, 66, §528.25, 530.4; C71, 73, 75, 77, 79, 81, §524.217]

89 Acts, ch 257, §5; 90 Acts, ch 1228, §2; 92 Acts, ch 1161, §1; 95 Acts, ch 148, §16; 2004 Acts, ch 1141, §15; 2006 Acts, ch 1015, §2; 2007 Acts, ch 170, §2, 3

Referred to in **§524.212**, **§524.219**, **§537.2305**

524.218 Regulation and examination of services.

A state bank shall not cause to be performed by contract or otherwise, any bank services, of a type referred to in **section 524.804** for itself or any affiliate, whether on or off its premises, unless the person performing such services will be subject to supervision, regulation, and examination by the superintendent to the same extent as if such services were being performed by the state bank itself on its own premises.

[C71, 73, 75, 77, 79, 81, §524.218; 81 Acts, ch 173, §9]

2004 Acts, ch 1141, §16

524.219 Fees.

1. A state bank 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. The fees for examination of any affiliate of a state bank as provided for in **section 524.1105**, and the examinations provided for in **section 524.217, subsection 1**, paragraphs "*c*" and "*d*", shall be established by the superintendent, based on the time required for the examination and the administrative costs and expenses incurred in the discharge of the duties imposed upon the superintendent by **this chapter**. The fees shall include but not be limited to costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment.

3. Failure to pay the amount of the fees to the superintendent within ten days after the date

of billing shall subject the state bank or any affiliate of a state bank to an additional charge equal to five percent of the amount of the fees for each day the payment is delinquent.

[C97, §1875, 1876, 1877; SS15, §1875; C24, 27, 31, 35, 39, §**9143, 9150, 9237;** C46, 50, 54, 58, 62, 66, §524.15, 524.23, 528.31; C71, 73, 75, 77, 79, 81, §524.219]

86 Acts, ch 1246, §617; 95 Acts, ch 148, §17; 2004 Acts, ch 1141, §17
Section not amended; editorial changes applied

524.220 Reports to superintendent.

1. A state bank shall render a full, clear, and accurate statement of its condition to the superintendent, in a format prescribed by the superintendent, verified by the oath of two of its officers, and attested by at least two of the directors. The superintendent may, in the superintendent's discretion, use any form of statement of condition that is used by the federal deposit insurance corporation or the federal reserve system.

2. The statement shall be transmitted to the superintendent or the superintendent's designee within thirty days after the end of each calendar quarter.

3. The superintendent shall also have power to call for special reports from a state bank whenever in the superintendent's judgment the same are necessary in order to obtain a full and complete knowledge of its condition. Such reports shall be verified and attested in the same manner as required in **subsection 1** of **this section**.

[R60, §1636, 1637; C73, §1570, 1571; C97, §1872, 1873, 1874; S13, §1873, 1889-m; C24, 27, 31, 35, 39, §**9228, 9229, 9231, 9232, 9234, 9305;** C46, 50, 54, 58, §528.22, 528.23, 528.25, 528.26, 528.28, 532.20; C62, 66, §528.22, 528.23, 528.25, 528.26, 528.28; C71, 73, 75, 77, 79, 81, §524.220]

95 Acts, ch 148, §18; 96 Acts, ch 1056, §5; 2006 Acts, ch 1015, §3, 4
Referred to in **§524.103**

524.221 Preservation of bank records — statute of limitations.

1. *a.* A state bank is not required to preserve its records for a period longer than seven years after the first day of January of the year following the time of the making or filing of such records, provided, however, that account records showing unpaid balances due to depositors shall not be destroyed. A copy of an original may be kept in lieu of any such original record. For purposes of **this subsection**, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original record.

b. A copy is deemed to be an original and shall be treated as an original record in a judicial or administrative proceeding for purposes of admissibility in evidence. A facsimile, exemplification, or certified copy of any such copy reproduced from a film record is deemed to be a facsimile, exemplification, or certified copy of the original. A printout or other tangible output readable by sight shown to accurately reflect data contained in a promissory note, negotiable instrument, or letter of credit, which contains a signature made or created by electronic or digital means such that it is stored by a computer or similar device, is deemed to be an original of such note, instrument, or letter for purposes of presenting such note, instrument, or letter for payment, acceptance, or honor, or for purposes of a judicial proceeding involving a claim based upon such note, instrument, or letter.

2. All causes of action, other than actions for relief on the grounds of fraud or mistake, against a state bank based upon a claim or claims founded on a written contract, or a claim or claims inconsistent with an entry or entries in a state bank record, made in the regular course of business, shall be deemed to have accrued, and shall accrue for the purpose of the statute of limitations one year after the breach or failure of performance of a written contract, or one year after the date of such entry or entries. No action founded upon such a cause may be brought after the expiration of six years from the date of such accrual.

3. The provisions of **this section**, insofar as applicable, shall apply to the records of a

national bank or a federally chartered savings bank or a federally chartered savings and loan association.

[C50, 54, 58, 62, 66, §528A.1 – 528A.5; C71, 73, 75, 77, 79, 81, §524.221]

91 Acts, ch 95, §1; 99 Acts, ch 34, §1; 2011 Acts, ch 87, §1, 2; 2012 Acts, ch 1023, §81

Referred to in **§524.1314**

524.222 Meetings of the board of directors called by superintendent.

Whenever the superintendent deems it necessary and advisable the superintendent may cause a meeting of the board of directors of a state bank to be held in such manner and at such time and place as the superintendent may direct. Any report of an examination required or allowed by **this chapter**, any conclusions drawn therefrom by the superintendent, any recommendations made relative thereto and any other matters concerning the operation and condition of the state bank may be presented to the board of directors by the superintendent. The state bank shall cause the recommendations of the superintendent to be recorded in the minutes of the board of directors of the state bank.

Each member of the board of directors shall furnish to the superintendent a statement, on forms to be supplied by the superintendent, that the member has read and is familiar with the recommendations of the superintendent.

[C71, 73, 75, 77, 79, 81, §524.222]

524.223 Power of superintendent to issue orders.

1. Whenever it shall appear to the superintendent that a state bank is engaging or has engaged, or the superintendent has reasonable cause to believe that the state bank is about to engage, in an unsafe or unsound practice in conducting the business of such state bank, or is violating or has violated, or the superintendent has reasonable cause to believe that the state bank is about to violate, any provision of **this chapter** or of any regulation adopted pursuant to **this chapter**, or any condition imposed in writing by the superintendent in connection with the approval of any matter required by **this chapter**, or any written agreement entered into with the superintendent, or any provision of **chapter 12C** or any rules adopted pursuant to **chapter 12C**, the superintendent may issue and serve upon the state bank a notice containing a statement of the facts constituting the alleged violation or violations, or the unsafe or unsound practice or practices, and fixing a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued to the state bank.

2. If the state bank fails to appear at the hearing it shall be deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if upon the record made at such hearing, the superintendent shall find that any violation or unsafe or unsound practice specified in the notice has been established, the superintendent may issue and serve upon the bank an order to cease and desist from any such violation or practice. Such order may require the state bank and its directors, officers and employees to cease and desist from any such violation or practice and, further, to take affirmative action to correct the conditions resulting from any such violation or practice. In addition, if the violation or practice involves a failure to comply with **chapter 12C** or any rules adopted pursuant to **chapter 12C**, the superintendent may recommend to the committee established under **section 12C.6** that the bank be removed from the list of financial institutions eligible to accept public funds under **section 12C.6A** and may require that during the current calendar quarter and up to the next succeeding eight calendar quarters that the bank do any one or more of the following:

a. Not accept public funds deposits.

b. Return to the depositors some or all uninsured public funds held in demand deposits and, when deposit instruments or agreements mature, return to the depositors some or all deposits representing proceeds of such instruments or agreements.

c. Pledge collateral to the treasurer of state having a value at all times up to one hundred ten percent of the public funds held by the bank.

d. Comply with such other requirements as the superintendent may impose.

3. Any order issued pursuant to **this section** shall become effective upon service of the order on the state bank and shall remain effective except to such extent that it is stayed,

modified, terminated, or set aside by action of the superintendent or of the district court of the county in which the state bank has its principal place of business.

4. The superintendent may apply to the district court of the county in which the state bank has its principal place of business for the enforcement of any order pursuant to **this section** and such court shall have jurisdiction and power to order and require compliance.

[C73, §1572; C97, §1877; C24, 27, 31, 35, 39, §**9235;** C46, 50, 54, 58, 62, 66, §528.29; C71, 73, 75, 77, 79, 81, §524.223]

2002 Acts, ch 1096, §16, 17

Referred to in **§524.228**

524.224 Grounds for management of state bank by superintendent.

1. The superintendent may take over the management of the property and business of a state bank whenever it appears to the superintendent that:

a. The state bank has violated its articles of incorporation or any law of this state.

b. The capital of the state bank is impaired.

c. The state bank is conducting its business in an unsafe or unsound manner.

d. The state bank is in such condition that it is unsound, unsafe or inexpedient for it to transact business.

e. The state bank has suspended or refused payment of its deposits or other liabilities contrary to the terms thereof.

f. The state bank refuses to make its records available to the superintendent for examination or otherwise refuses to make available, through an officer or employee having knowledge thereof, information required by the superintendent for the proper discharge of the duties of the superintendent's office.

g. The state bank neglects or refuses to observe any order of the superintendent made pursuant to the provisions of **this chapter**, unless the enforcement of such order is stayed in a proceeding brought by the state bank.

h. The state bank has not transacted any business or performed any of the duties, contemplated by its authorization to do business, for a period of one year.

i. The state bank has failed to renew its corporate existence in the manner provided for in **section 524.314** within one hundred eighty days prior to the expiration thereof.

2. The superintendent shall thereafter manage the property and business of the state bank until such time as the superintendent may relinquish to the state bank the management thereof, upon such conditions as the superintendent may prescribe, or until its affairs be finally dissolved as provided in **this chapter**.

[C73, §1572; C97, §1877; C24, 27, 31, 35, §9283-e1, -e2, -e3, -e4; C39, §**9235, 9285.05 – 9285.08;** C46, 50, 54, 58, 62, 66, §528.29, 528.90 – 528.93; C71, 73, 75, 77, 79, 81, §524.224]

95 Acts, ch 148, §19; 2012 Acts, ch 1023, §157

Referred to in **§524.225**, **§524.226**

524.225 Procedures — judicial review.

Judicial review of the actions of the superintendent may be sought in accordance with **chapter 17A**. However, contested case provisions of **chapter 17A**, the Iowa administrative procedure Act, do not apply to an action by the superintendent to take over the management of or to manage a state bank, as authorized by **sections 524.224** and **524.226**.

[C71, 73, 75, 77, 79, 81, §524.225]

89 Acts, ch 257, §6

524.226 Management of state bank by superintendent.

1. Upon taking over the management of the property and business of a state bank, the superintendent shall have the authority to operate and direct the affairs of the state bank in its regular course of business. The superintendent shall also have the authority to collect such amounts due to the state bank and to do such other acts as are necessary or expedient to conduct the affairs of the state bank and conserve or protect its assets, property and business.

2. If upon taking over the management of the business and property of the state bank, the superintendent concludes that the state bank is insolvent or should be dissolved for any other reason enumerated in **section 524.224**, the superintendent may immediately, or at any

time within three years, order that the state bank cease to carry on its business and proceed to dissolve the affairs of the state bank in accordance with the provisions of **this chapter**. If the superintendent has not caused the state bank to cease to carry on its business within three years of taking over the management of the property and business of the state bank, the superintendent shall relinquish the management thereof to the state bank.

3. The superintendent may appoint one or more special deputies as agent or agents, with powers specified in the certificate of appointment, to assist the superintendent in the duty of management, conservation or dissolution and distribution of the business and property of a state bank.

4. The superintendent, during the period of the superintendent's management of the property and business of the state bank, may require reimbursement by the state bank to the extent of the expenses incurred by the superintendent in connection with such management.

[C73, §1572; C97, §1877; C24, 27, 31, 35, §9238, 9283-e2, -e4; C39, §**9238, 9283.06, 9283.08;** C46, 50, 54, 58, 62, 66, §528.32, 528.91, 528.93; C71, 73, 75, 77, 79, 81, §524.226]

2012 Acts, ch 1017, §19, 28

Referred to in **§524.225**, **§524.1310**

524.227 Enforcement of Iowa consumer credit code.

1. The superintendent shall enforce the Iowa consumer credit code, **chapter 537**, with respect to banks, as provided in **sections 537.2303**, **537.2305**, and **537.6105**.

2. The superintendent shall cooperate with the administrator, and shall assist the administrator whenever necessary to provide for the discharge of the duties of the administrator.

3. Notwithstanding other provisions of **this chapter** to the contrary, the superintendent shall authorize to be furnished to the administrator, access to or copies of records in the possession of the superintendent or other persons which relate to a bank when necessary to enable the administrator to enforce **chapter 537**.

4. The superintendent shall make an annual report in writing to the administrator. A copy of the report shall be furnished at cost by the superintendent to each bank or other person upon request. The annual report shall contain:

a. A summary of applications to engage in the business of banking approved or denied by the superintendent since the last report.

b. An estimate of the disbursements of agency funds for consumer credit protection during the calendar year ending the preceding December 31.

c. Information which the superintendent may deem appropriate and advisable to disclose.

d. Information which the administrator may require to be included.

[C75, 77, 79, 81, §524.227]

91 Acts, ch 118, §1; 2003 Acts, ch 44, §114

524.228 Interim cease and desist order — final order — suspension.

1. If it appears to the superintendent that a state bank, or any director, officer, employee, or substantial shareholder of the state bank is engaging in or is about to engage in an unsafe or unsound practice or dishonest act in conducting the business of the state bank that is likely to cause insolvency or substantial dissipation of assets or earnings of the state bank, or is likely to seriously weaken the condition of the state bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to **section 524.223**, **524.606, subsection 2**, or **524.707, subsection 2**, the superintendent may issue an interim order requiring the bank, director, officer, employee, or substantial shareholder to cease and desist from any such practice or act, and to take affirmative action, including suspension of the director, officer, or employee to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings. The interim order becomes effective upon service upon the state bank, or upon the director, officer, employee, or substantial shareholder of the state bank and, unless set aside, limited, or suspended by a court as provided in **this chapter**, remains effective and enforceable pending the completion of the administrative proceedings pursuant to the interim order and until such time as the superintendent dismisses the charges specified in the interim order,

or, if a final cease and desist order is issued against the state bank or the director, officer, employee, or substantial shareholder until the effective date of the final order.

2. Within ten days after the state bank concerned or any director, officer, employee, or substantial shareholder is served with an interim order, the bank or such director, officer, employee, or substantial shareholder may apply to the district court in the county in which the bank has its principal place of business, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such interim order pending the completion of the administrative proceedings. If serious prejudice to the interests of the superintendent, the state bank, the officer, director, employee, or substantial shareholder would result from such hearing, the court may order the judicial proceeding to be conducted in camera.

3. The interim order shall contain a concise statement of the facts constituting the alleged unsafe or unsound practice or alleged dishonest act, and shall fix a time and place at which a hearing will be held to determine whether a final order to cease and desist should issue against the state bank or any director, officer, employee, or substantial shareholder. The hearing shall be fixed for a date not later than thirty days after service of the interim order unless a later date is set at the request of the party so served. If the state bank, or the director, officer, employee, or substantial shareholder fails to appear at the hearing, the state bank, or the director, officer, employee, or substantial shareholder is deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if upon the record made at the hearing the superintendent finds that any unsafe or unsound practice or dishonest act specified in the interim order has been established, the superintendent may issue and serve upon the bank, or the director, officer, employee, or substantial shareholder a final order to cease and desist from any such practice or act. The order may require the state bank, or the director, officer, employee, or substantial shareholder to cease and desist from any such practice or act and, further, to take affirmative action, including suspension of the director, officer, or employee.

4. A hearing provided for in **this section** shall be presided over by an administrative law judge appointed in accordance with **section 17A.11**. The hearing shall be private, unless the superintendent determines after full consideration of the views of the party afforded the hearing, that a public hearing is necessary to protect the public interest. After the hearing, and within thirty days after the case has been submitted for decision, the superintendent shall review the proposed order of the administrative law judge and render a final decision, including findings of fact upon which the decision is predicated, and issue and serve upon each party to the proceeding an order consistent with **this section**.

5. Any final order issued by the superintendent pursuant to **subsection 3** becomes effective upon service of the final order on the state bank, director, officer, employee, or substantial shareholder and shall remain effective except to the extent that it is stayed, modified, terminated, or set aside by action of the superintendent or of the district court of the county in which the state bank has its principal place of business in accordance with the terms of **chapter 17A**.

6. In the case of violation or threatened violation of, or failure to obey, an interim order issued pursuant to **subsection 1** or a final order issued pursuant to **subsection 3**, the superintendent may apply to the district court of the county in which the state bank has its principal place of business for the enforcement of the order and such court shall have jurisdiction and power to order and require compliance with the interim order or final order.

7. For purposes of **this section**, *"substantial shareholder"* means a shareholder exercising a controlling influence over the management or policies of a state bank as determined by the superintendent.

91 Acts, ch 220, §2

524.229 Emergency powers of superintendent.

Whenever the superintendent determines that an emergency affecting one or more state-chartered banks or bank offices exists, or is impending, in this state or in any part or parts of this state, the superintendent may temporarily suspend applicable rules or statutes to the extent necessary to allow the affected bank or banks to respond to the emergency.

2008 Acts, ch 1160, §6

DIVISION III

INCORPORATION

524.301 Incorporators — organizers.

A state bank may be incorporated or organized as a limited liability company under **this chapter** by one or more individuals eighteen years of age or older, a majority of whom shall be residents of this state and citizens of the United States.

[C97, §1840, 1863; C24, 27, 31, 35, 39, §**9155, 9204;** C46, 50, 54, 58, 62, 66, §526.1, 527.3; C71, 73, 75, 77, 79, 81, §524.301]

95 Acts, ch 148, §20; 2004 Acts, ch 1141, §49

524.302 Articles of incorporation.

1. The articles of incorporation of a state bank, in the form prescribed by the superintendent, shall set forth the following:

a. The name of the state bank, that it is incorporated for the purpose of conducting the business of banking, and that it is incorporated under the provisions of **this chapter**.

b. The location of its proposed principal place of business including the name of the municipal corporation and county.

c. The duration of the state bank which shall be perpetual.

d. (1) If the state bank will be a stock corporation, the aggregate number of common and preferred shares which the state bank shall have authority to issue and the par value of such shares. If such shares are to be divided into classes or series, the number of shares of each class or series and a statement of the par value of the shares of each class or series.

(2) If the state bank will be a mutual corporation, that the corporation will be a mutual corporation.

e. The number of directors constituting the initial board of directors and the names and addresses of the individuals who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

f. The name and address of each incorporator.

g. The specific month in which the annual meeting of shareholders is to be held.

2. The articles of incorporation may set forth any or all of the following:

a. Provisions not inconsistent with law regarding:

(1) Managing the business and regulating the affairs of the corporation.

(2) Defining, limiting, and regulating the affairs of the corporation.

b. Any provision required or permitted by **this chapter** to be set forth in the bylaws.

c. A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for any breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for any transaction from which the director derives an improper personal benefit, or under **section 524.605, subsection 1, paragraph *"a"* or *"b"***. A provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

3. The articles of incorporation need not set forth any of the corporate powers enumerated in **this chapter**. The articles of incorporation shall be signed by all of the incorporators.

[C97, §1842, 1863; S13, §1842; C24, 27, 31, 35, 39, §**9157, 9204;** C46, 50, 54, 58, 62, 66, §526.3, 527.3; C71, 73, 75, 77, 79, 81, §524.302]

84 Acts, ch 1032, §1; 87 Acts, ch 212, §12; 88 Acts, ch 1170, §10; 89 Acts, ch 257, §7, 8; 95 Acts, ch 148, §21; 96 Acts, ch 1056, §6; 2012 Acts, ch 1017, §5, 18; 2012 Acts, ch 1023, §155

Referred to in **§524.1411**, **§524.1508**

524.302A Articles of incorporation — limited liability company.

1. The articles of incorporation of a state bank organized as a limited liability company

under **this chapter** shall be in the form prescribed by the superintendent, and shall set forth all of the following:

a. The name of the state bank, that it is organized for the purpose of conducting the business of banking, and that it is organized under the provisions of **this chapter**.

b. The street address of the limited liability company's initial registered office and the name of its initial registered agent at that office.

c. The location of the state bank's proposed principal office of the limited liability company, which may be the same as the registered office, but need not be within this state.

d. The duration of the state bank, which shall be perpetual.

e. The aggregate number of common and preferred shares which the state bank shall have authority to issue and the par value of such shares. If such shares are to be divided into classes or series, the number of shares of each class or series and a statement of the par value of the shares of each class or series.

f. The number of managers constituting the initial board of directors and the names and addresses of the individuals who are to serve as directors until successors are elected and qualify. A statement that the exclusive authority to manage the state bank is vested in a board of directors that is elected or appointed by the members, that operates in substantially the same manner as, and has substantially the same rights, powers, privileges, duties, and responsibilities as, a board of directors of a state bank chartered as a corporation under **this chapter**.

g. A provision that the articles of incorporation, operating agreement, or other organizational documents of the state bank shall not require the consent of any other owner in order for an owner to transfer membership interests in the state bank, including voting rights.

2. The articles of incorporation may set forth any or all of the following:

a. Provisions not inconsistent with law regarding management of the business and regulation of the affairs of the state bank.

b. Any provision required or permitted by **this chapter** to be set forth in the operating agreement.

3. The articles of incorporation need not set forth any of the organizational powers enumerated in **this chapter**.

2004 Acts, ch 1141, §50

524.303 Application for approval.

The incorporators or organizers shall make an application to the superintendent for approval of a proposed state bank in the manner prescribed by the superintendent and shall deliver to the superintendent, together with such application:

1. The articles of incorporation.

2. Applicable fees, payable to the secretary of state as specified in **section 489.117** or **section 490.122**, for the filing and recording of the articles of incorporation.

[C97, §1842, 1863; S13, §1842; C24, 27, 31, 35, §9140-c1; C39, §**9140.1, 9158, 9205;** C46, 50, 54, 58, 62, 66, §524.11, 526.4, 527.4; C71, 73, 75, 77, 79, 81, §524.303]

90 Acts, ch 1205, §37; 95 Acts, ch 148, §22; 2004 Acts, ch 1141, §51; 2008 Acts, ch 1162, §147, 154, 155

Referred to in **§524.314**

524.304 Publication of notice.

1. The incorporators or organizers of a state bank shall, within thirty days of the acceptance of the application for processing, publish notice of the proposed incorporation or organization once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation which is proposed as the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the proposed state bank is to have its principal place of business. The notice shall set forth all of the following:

a. The name of the proposed state bank.

b. A statement that it is to be incorporated or organized under **this chapter**.

c. The purpose or purposes of the state bank.

d. The names and addresses of the incorporators or organizers and of the members of the initial board of directors or board of directors as they appear, or will appear, in the articles of incorporation.

e. The date the application was accepted for processing.

f. If the incorporation or organization of the state bank has been approved by the superintendent under **section 524.305, subsection 8**, the name and address of the bank with which the state bank will have merged, or the assets of which the state bank will have acquired or the condition of which in some other way provided a purpose for the incorporation or organization.

2. Proof of publication of the notice by affidavit of the publisher of the newspaper in which the notice appears shall be filed with the superintendent and is conclusive evidence of the publication.

[C97, §1842, 1863; S13, §1842; C24, 27, 31, 35, 39, §**9159, 9205;** C46, 50, 54, 58, 62, 66, §526.5, 527.4; C71, 73, 75, 77, 79, 81, §524.304]

95 Acts, ch 148, §23; 2004 Acts, ch 1141, §52

Referred to in **§524.305**, **§524.314**

524.305 Approval by superintendent.

1. Upon receipt of an application for approval of a state bank, the superintendent shall conduct an investigation as the superintendent deems necessary to ascertain whether:

a. The articles of incorporation and supporting items satisfy the requirements of **this chapter**.

b. The convenience and needs of the public will be served by the proposed state bank.

c. The population density or other economic characteristics of the area primarily to be served by the proposed state bank afford reasonable promise of adequate support for the state bank.

d. The character and fitness of the incorporators or organizers and of the members of the initial board of directors are such as to command the confidence of the community and to warrant the belief that the business of the proposed state bank will be honestly and efficiently conducted.

e. The capital structure of the proposed state bank is adequate in relation to the amount of the anticipated business of the state bank and the safety of prospective depositors.

f. The proposed state bank will have sufficient personnel with adequate knowledge and experience to conduct the business of the state bank, and to administer fiduciary accounts, if the state bank is to be authorized to act in a fiduciary capacity.

2. Within one hundred eighty days after the application is accepted for processing, the superintendent shall approve or disapprove the application on the basis of the investigation.

3. Within thirty days after the date of the second publication of the notice required under **section 524.304**, any interested person may submit written comments and information to the superintendent concerning the application. Comments challenging the legality of an application must be submitted separately in writing. The superintendent may extend the thirty-day comment period, if, in the judgment of the superintendent, extenuating circumstances which justify the extension exist.

4. Within thirty days after the date of the second publication of the notice required by **section 524.304**, any interested person may submit a written request of the superintendent for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. A written request for a hearing shall be evaluated by the superintendent, who may grant or deny the request in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

5. If a request for a hearing is denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. An interested person may

submit additional written comments or information on the application to the superintendent, with copies to the applicant at the time of submission to the superintendent, within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period after the notice of denial. The superintendent may waive this seven-day period if requested by the applicant. A copy of any response submitted by the applicant shall also be mailed by the applicant to the interested persons at the time the response is submitted to the superintendent.

6. If the superintendent approves the application, the superintendent shall notify the incorporators or organizers, and such other persons who requested in writing that they be notified, of the approval. If the superintendent disapproves the application, the superintendent shall notify the incorporators or organizers of the action and the reason for the decision.

7. The actions of the superintendent shall be subject to judicial review in accordance with **chapter 17A**. The court may award damages to the incorporators or organizers if it finds that review is sought frivolously or in bad faith.

8. **Subsections 3, 4, and 5** shall not apply if the superintendent finds that one of the purposes of the proposed state bank is the merger with, or the purchase of some or all of the assets of and assumption of some or all of the liabilities of, a bank for which a receiver has been appointed or which has been ordered, by authorities of this state or the United States, to cease to carry on its business, or if the superintendent finds for any other reason that immediate action on the pending application is advisable in order to protect the interests of depositors or the assets of any other bank.

9. As a condition of receiving the decision of the superintendent with respect to the application, the incorporators or organizers shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the application.

[C24, 27, 31, 35, §9140-c1, 9141, 9142; C39, §**9140.1, 9141, 9142;** C46, 50, 54, 58, 62, 66, §524.11, 524.12, 524.13; C71, 73, 75, 77, 79, 81, §524.305]

92 Acts, ch 1161, §2; 95 Acts, ch 148, §24; 2004 Acts, ch 1141, §53, 54

Referred to in **§524.304**, **§524.312**, **§524.314**, **§524.1001**, **§533.305**

524.306 Incorporation or organization of state bank.

1. Unless a delayed effective date or time is specified, the corporate or organizational existence of a state bank begins when the articles of incorporation, with the superintendent's approval indicated on the articles of incorporation, are filed with the secretary of state. The secretary of state shall record the articles of incorporation and forward a copy of them to the county recorder of the county in which the state bank is to have its principal place of business.

2. The secretary of state's acknowledgment of filing of the articles of incorporation is conclusive proof that the incorporators or organizers satisfied all conditions precedent to incorporation or organization, except in a proceeding instituted by the superintendent to cancel or revoke the incorporation or involuntarily dissolve the corporation or organization.

[C97, §1842, 1863; S13, §1842; C24, 27, 31, 35, 39, §**9158, 9205;** C46, 50, 54, 58, 62, 66, §526.4, 527.4; C71, 73, 75, 77, 79, 81, §524.306]

90 Acts, ch 1205, §38; 91 Acts, ch 211, §11; 95 Acts, ch 148, §25; 96 Acts, ch 1034, §50; 2004 Acts, ch 1141, §55

Referred to in **§524.314**

524.307 Initial organization of state bank.

Upon incorporation, or organization as a limited liability company, of the state bank, the initial board of directors shall hold an organizational meeting within this state, at the call of a majority of the directors, to complete the organization of the state bank by electing officers, adopting bylaws, if any are to be adopted, and conducting any other business properly brought before the board at the meeting.

[C97, §1845; C24, 27, 31, 35, 39, §**9168;** C46, 50, 54, 58, 62, 66, §526.11; C71, 73, 75, 77, 79, 81, §524.307]

95 Acts, ch 148, §26; 2004 Acts, ch 1141, §56

Referred to in **§524.314**

524.308 Issuance of authorization to do business.

1. The state bank shall not accept deposits or transact any business except such business as is incident to commencement of business, or to the obtaining of subscriptions and payment for its shares until receipt of an authorization to do business from the superintendent. The superintendent shall issue an authorization to do business upon finding that the proposed state bank has complied with all the requirements of **this chapter** precedent to commencing business and has submitted to the superintendent a statement under oath, in the manner designated by the superintendent, showing that the capital, surplus and undivided profits required by the superintendent in accordance with **this chapter** have been fully paid in.

2. If a state bank transacts any business before receipt of an authorization to do business in violation of **subsection 1**, the directors, managers, and officers who willfully authorized or participated in the action are severally liable for the debts and liabilities of the state bank incurred prior to the receipt of the authorization to do business.

[C97, §1843, 1864; S13, §1843, 1864; C24, 27, 31, 35, 39, §**9161, 9207;** C46, 50, 54, 58, 62, 66, §526.6, 527.5; C71, 73, 75, 77, 79, 81, §524.308]

95 Acts, ch 148, §27, 28; 2004 Acts, ch 1141, §57

Referred to in **§524.314**

524.309 Publication of authorization to do business.

1. A state bank shall cause to be published once within two weeks after the issuance by the superintendent of the authorization to do business, in a newspaper of general circulation published in the municipal corporation which is the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business, a notice which shall state all of the following:

a. The name of the state bank, the address of its principal place of business, and the date of the issuance of the authorization to do business.

b. The names and addresses of the members of the initial board of directors as designated in the articles of incorporation.

c. That the shareholders shall not be personally liable for the debts and obligations of the state bank.

2. Proof of publication, by affidavit of the publisher of the newspaper in which it was made, shall be filed with the superintendent, and is conclusive evidence of the fact.

[C97, §1843, 1864; S13, §1843, 1864; C24, 27, 31, 35, 39, §**9161, 9208;** C46, 50, 54, 58, 62, 66, §526.6, 527.6; C71, 73, 75, 77, 79, 81, §524.309]

95 Acts, ch 148, §29

Referred to in **§524.314**

524.310 Name of state bank.

1. The name of a state bank originally incorporated or organized after the effective date of **this chapter** shall include the word "bank" and may include the word "state" or "trust" in its name. A state bank using the word "trust" in its name must be authorized under **this chapter** to act in a fiduciary capacity. A national bank or federal savings association shall not use the word "state" in its legally chartered name.

2. The provisions of **this section** shall not require any state bank existing and operating on January 1, 1970, to add to, modify or otherwise change its corporate or organizational name, either on January 1, 1970, or upon renewal of its corporate existence pursuant to **section 524.314**.

3. If a state bank existing and operating on January 1, 1970, causes its corporate or organizational name to be changed, the name as changed shall comply with **subsection 1** of **this section**.

4. *a.* A person may reserve the exclusive use of a corporate or organizational name for a state bank by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate or organizational name applied for is available, the

secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty-day period.

b. The owner of a reserved corporate or organizational name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

5. A state bank using a fictitious name to transact business in this state may file its fictitious name with the secretary of state by delivering to the superintendent for filing with the secretary of state a copy of the resolution of its board of directors certified by its secretary, adopting the fictitious name. A state bank using a fictitious name shall comply with the requirements of **section 524.1206** and with any other regulatory requirements governing use of its name. The fictitious name must be distinguishable upon the record of the secretary of state from all of the following:

a. The corporate name of a business or nonprofit corporation incorporated or authorized to transact business in this state.

b. A corporate or company name reserved, registered, or protected as provided in **section 489.109**, **490.402**, **490.403**, **504.402**, or **504.403**.

c. The fictitious name of another foreign business or nonprofit corporation authorized to transact business in this state.

[C97, §1861, 1889; S13, §1889, 1889-i; C24, 27, 31, 35, 39, §**9202, 9261, 9295, 9296;** C46, 50, 54, 58, 62, 66, §527.1, 528.54, 532.12, 532.13; C71, 73, 75, 77, 79, 81, §524.310]

84 Acts, ch 1202, §1; 91 Acts, ch 11, §1; 91 Acts, ch 258, §61; 95 Acts, ch 148, §30; 2004 Acts, ch 1141, §18, 58; 2005 Acts, ch 19, §108; 2010 Acts, ch 1028, §8; 2011 Acts, ch 34, §120; 2011 Acts, ch 131, §73, 158

Referred to in **§524.1416**

524.311 Commission for organizing state banks.

No person shall, directly or indirectly, receive or contract to receive any commission or bonus of any kind for organizing any state bank or for securing a subscription to the original capital of any state bank or to any increase thereof; provided that **this section** shall not be construed as prohibiting the payment of reasonable compensation for legal or accounting services in connection with organization.

[C24, 27, 31, 35, 39, §**9275;** C46, 50, 54, 58, 62, 66, §528.74; C71, 73, 75, 77, 79, 81, §524.311]

Referred to in **§524.1610**

524.312 Location of state bank — exceptions.

1. A state bank originally incorporated or organized pursuant to **this chapter** shall have its principal place of business within the city limits of a municipal corporation. The existence of a state bank shall not, however, be affected by the subsequent discontinuance of the municipal corporation. A state bank existing and operating on January 1, 1970, which does not have its principal place of business within the city limits of a municipal corporation, may renew its corporate or organizational existence pursuant to **section 524.314** without regard to **this section** and may also operate as a bank or convert to and operate as a bank office when acquired by or merged into another state bank and approved by the superintendent.

2. A state bank may, with the prior written approval of the superintendent, change the location of its principal place of business to a new location within the state.

3. If a change in the location of the principal place of business of a state bank is proposed, application for approval of the superintendent shall be made as required by the superintendent pursuant to **this section**. A change in location of the principal place of business of a state bank, including a change from one municipal corporation to another municipal corporation within an urban complex, requires an amendment to the articles of incorporation pursuant to **sections 524.1502**, **524.1504**, and **524.1506**. A state bank seeking approval of a change of location pursuant to **this subsection** shall publish a notice of the proposed change of location in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the state bank has its principal place of business, and

in the municipal corporation in which it seeks to establish its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the municipal corporation is located. The notice shall be published within thirty days after the application to the superintendent for approval of the change in location is accepted for processing. The notice shall set forth the name of the state bank, the present location of its principal place of business, the location to which it proposes to move its principal place of business, and the date upon which the application was accepted for processing by the superintendent.

4. Within thirty days after acceptance of an application for approval of a change of location of the principal place of business of a state bank pursuant to **subsection 3**, the superintendent shall commence an investigation into the circumstances of the application as deemed necessary by the superintendent, giving due consideration to factors substantially similar to those set forth in **section 524.305, subsection 1**, paragraphs *"c"* through *"f"*. Within one hundred eighty days after the application has been accepted for processing, the superintendent shall approve or disapprove the application on the basis of the investigation. The superintendent shall give written notice of the decision to the state bank, and in the event of disapproval a statement of the reasons for the disapproval. If the superintendent approves the change in location the superintendent shall deliver the articles of amendment to the secretary of state. As a condition of receiving the decision of the superintendent with respect to the application, the state bank shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the application.

5. A state bank approved under the provisions of **section 524.305, subsection 8**, shall not commence its business at any location other than within a municipal corporation or unincorporated area in which was located the principal place of business or an office of the bank the condition of which was the basis for the superintendent authorizing incorporation or organization of the new state bank.

[C71, 73, 75, 77, 79, 81, §524.312]

85 Acts, ch 13, §1; 95 Acts, ch 148, §31, 32; 2004 Acts, ch 1141, §59; 2006 Acts, ch 1015, §5; 2008 Acts, ch 1160, §7

524.313 Bylaws.

A state bank may adopt bylaws. The power to adopt, amend, or repeal bylaws or adopt new bylaws is vested in the board of directors unless reserved to the shareholders by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the state bank not inconsistent with law or the articles of incorporation. For a state bank organized as a limited liability company under **this chapter**, *"bylaws"* means the operating agreement of the state bank.

[C97, §1844; C24, 27, 31, 35, 39, §**9162;** C46, 50, 54, 58, 62, 66, §526.7; C71, 73, 75, 77, 79, 81, §524.313]

95 Acts, ch 148, §33; 2004 Acts, ch 1141, §60

524.314 Renewal of corporate existence of existing state bank.

1. The corporate existence of a state bank existing and operating on January 1, 1970, which expires subsequent to that date, may be renewed prior to the expiration date of the corporate existence, following the affirmative vote of the holders of at least a majority of the shares entitled to vote on the renewal, at a meeting held for that purpose and called as provided by **section 524.533**, and delivery to the superintendent of the articles of incorporation together with the applicable filing and recording fees for the filing and recording. If the superintendent finds that the articles of incorporation satisfy the requirements of **this section**, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office. Following the receipt of the articles of incorporation, the secretary of state shall proceed as provided in **section 524.306**.

2. **Sections 524.303**, **524.304**, **524.305**, **524.307**, **524.308**, and **524.309** are not applicable to a state bank existing and operating on January 1, 1970, which renews its corporate existence as provided in **subsection 1**.

3. The renewal of the corporate existence of a state bank pursuant to **this section** shall

not affect any right accrued or established, or any liability or penalty incurred, under the laws of this state or of the United States, prior to the issuance of a certificate of incorporation by the secretary of state.

95 Acts, ch 148, §34
Referred to in §524.224, §524.310, §524.312

524.315 State banks as limited liability companies.

1. A state bank organized as a limited liability company under **this chapter** shall also be subject to **chapter 489**, the revised uniform limited liability company Act. If a provision of **chapter 489**, the revised uniform limited liability company Act, conflicts with a provision of **this chapter** or any rule of the superintendent adopted pursuant to **this chapter**, the provisions of **this chapter** or rule of the superintendent shall control.

2. The superintendent shall possess the exclusive authority to regulate a state bank organized as a limited liability company under **this chapter**.

3. The superintendent may adopt rules to ensure that a state bank organized as a limited liability company under **this chapter** is operating in a safe and sound manner and is subject to the superintendent's authority in the same manner as a state bank organized as a corporation.

2004 Acts, ch 1141, §61; 2008 Acts, ch 1162, §148, 154, 155

524.316 State banks as mutual corporations.

The superintendent may adopt rules to ensure that a state bank incorporated as a mutual corporation is operating in a safe and sound manner and is subject to the superintendent's authority in the same manner as a state bank incorporated as a stock corporation.

2012 Acts, ch 1017, §6, 18

DIVISION IV

CAPITAL STRUCTURE

524.401 Minimum capital.

1. The minimum capital structure of a state bank existing and operating on July 1, 1995, shall not be less than the amount required by law prior to that date.

2. The minimum capital structure of a state bank incorporated after July 1, 1995, or organized after July 1, 2004, pursuant to the provisions of **this chapter** shall not be less than the amount required by the federal deposit insurance corporation, or its successor, or a greater amount which the superintendent may deem necessary in view of the deposit potential of the state bank and current banking standards relating to total capital requirements.

3. A state bank incorporated on or after July 1, 1995, or organized after July 1, 2004, pursuant to **this chapter**, prior to receiving authorization to do business from the superintendent, shall establish paid-in surplus and undivided profits as required by the superintendent.

4. A state bank originally incorporated or organized pursuant to **this chapter** shall establish, prior to receiving authorization to do business from the superintendent, paid-in surplus and undivided profits as required by the superintendent.

[C97, §1843, 1864; S13, §1843, 1864; C24, 27, §9160, 9206; C31, §9217-c1; C35, §9217-c1, 9283-f14; C39, §**9217.1, 9283.42;** C46, 50, 54, 58, 62, 66, §528.1, 528.127; C71, 73, 75, 77, 79, 81, §524.401]

95 Acts, ch 148, §35; 96 Acts, ch 1056, §7; 2004 Acts, ch 1141, §62
Referred to in §524.103

524.402 and 524.403 Repealed by 95 Acts, ch 148, §135.

524.404 Capital notes and debentures.

1. A state bank, with the prior approval of the superintendent and the affirmative vote of the holders of a majority of the shares entitled to vote, may issue capital notes or debentures. The amounts, maturities, rate of interest, relative rights with other creditors, and other

terms and conditions shall be set forth on the face of the capital notes or debentures or in an attendant agreement, and all terms and conditions are subject to the prior approval of the superintendent provided that all such capital notes and debentures shall be subordinated to the rights of other persons to the extent provided for in **section 524.1312**. The aggregate amount of all capital notes and debentures issued and outstanding pursuant to **this section** shall not exceed, at any one time, twenty-five percent of the aggregate capital of the state bank.

2. A state bank shall not make any payment of principal on any capital notes or debentures without the prior approval of the superintendent nor shall any payment of principal and interest be made on any such capital or debentures by a state bank when its capital is impaired or which would cause its capital to become impaired. Subject to the provisions of **this section** a state bank may issue capital notes or debentures with provision for installment or serial payment of capital notes or debentures according to an established schedule which shall be approved by the superintendent prior to issuance.

3. A state bank shall not issue capital notes or debentures within five years after it is originally authorized to do business.

[C71, 73, 75, 77, 79, 81, §524.404]

95 Acts, ch 148, §36

Referred to in **§524.103**, **§524.814**, **§524.818**

524.405 Increase or decrease of capital structure.

1. A state bank incorporated as a stock corporation may increase its capital structure or effect an allocation of amounts within its capital structure by the use of any of the following methods:

a. Sale of authorized but unissued shares.

b. Transfer of surplus or undivided profits to capital for authorized but unissued shares.

c. Transfer of undivided profits to surplus.

d. Authorization and issuance of common shares, preferred shares, or capital notes or debentures.

2. The superintendent, whenever it appears necessary to do so in the interest of the safety of the deposits of a state bank incorporated as a stock corporation, may require that the capital structure of the state bank be increased by either of the methods provided for in **subsection 1**, paragraphs *"a"* and *"d"*.

3. Capital or surplus shall not be decreased except with the approval of the superintendent.

4. A state bank incorporated as a mutual corporation may raise capital by accepting payments on savings and demand accounts and by any other means authorized by the superintendent. Whenever it appears necessary to do so in the interest of the safety of the deposits of a state bank incorporated as a mutual corporation, the superintendent may require that the capital structure of the state bank be increased by any means authorized by the superintendent.

[C97, §1856; C24, 27, 31, 35, 39, §**9194, 9262, 9264, 9265;** C46, 50, 54, 58, 62, 66, §526.38, 528.56, 528.59, 528.60; C71, 73, 75, 77, 79, 81, §524.405]

95 Acts, ch 148, §37; 2004 Acts, ch 1141, §19; 2012 Acts, ch 1017, §7, 18

Referred to in **§524.103**, **§524.521**, **§524.543**

DIVISION V

SHARES, SHAREHOLDERS, AND DIVIDENDS

524.501 through 524.517 Transferred to §524.521, 524.523 – 524.525, 524.527, 524.528, 524.531 – 524.533, 524.535 – 524.539, and 524.541 – 524.543 respectively.

524.518 Repealed by 95 Acts, ch 148, §135.

524.519 and 524.520 Transferred to §524.544 and 524.545.

524.521 Authorized shares.

1. The articles of incorporation of a stock corporation must prescribe the classes of shares and the number of shares of each class that the state bank is authorized to issue. If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class. Prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class must have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by **section 524.523**.

2. The articles of incorporation of a stock corporation must authorize both of the following:

a. One or more classes of shares that together have unlimited voting rights.

b. One or more classes of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the state bank upon dissolution.

3. The articles of incorporation of a stock corporation may authorize one or more classes of shares that have any of the following qualities:

a. Have special, conditional, or limited voting rights, or no right to vote, unless prohibited by **this chapter**.

b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:

(1) At the option of the state bank, the shareholders, or another person or upon the occurrence of a designated event.

(2) For cash, indebtedness, securities, or other property.

(3) In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events.

c. Preferred shares are redeemable only by resolution of the board of directors with the prior approval of the superintendent. Preferred shares which are redeemable according to the terms of their issuance shall be redeemed only in accordance with such terms. Preferred shares which are redeemed shall be canceled and shall not be reissued. Preferred shares which are not redeemable according to the terms of their issuance are redeemable only pro rata, by lot, or by such other equitable method as determined by the board of directors.

d. (1) If preferred shares are redeemed by a state bank, the redemption effects a cancellation of the shares, and a statement of cancellation shall be filed as provided in this paragraph. The filing of the statement of cancellation constitutes an amendment to the articles of incorporation and reduces the number of preferred shares of the class which the state bank is authorized to issue by the number which are canceled.

(2) The statement of cancellation shall be executed by the state bank by its president or a vice president and by its cashier or an assistant cashier, and acknowledged by one of the officers signing such statement, and shall set forth all of the following:

(a) The name of the state bank and the effective date of its articles of incorporation.

(b) The number of preferred shares canceled through redemption, itemized by classes.

(c) The aggregate number of issued shares, itemized by classes, after giving effect to the cancellation.

(d) The amount, expressed in dollars, of the stated capital of the state bank after giving effect to the cancellation.

(e) The number of shares which the state bank has authority to issue, itemized by classes, after giving effect to the cancellation.

(3) The statement of cancellation, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent finds the statement of cancellation satisfies the requirements of **this section**, deliver it to the secretary of state for filing and recording in the secretary of state's office and the statement of cancellation shall also be filed and recorded in the office of the county recorder. The capital of the state bank is deemed to be reduced by the par value of the shares canceled upon the effective date of the redemption.

e. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.

f. Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the state bank.

4. The description of the designations, preferences, limitations, and relative rights of share classes in **subsection 3** is not all-inclusive.

5. Unless the articles of incorporation or bylaws otherwise provide, the board of directors, by resolution duly adopted and with the approval of the superintendent as provided in **section 524.405**, may issue from time to time, in whole or in part, the shares authorized by the articles of incorporation.

[C97, §1853, 1865; C24, 27, §9192, 9209; C31, 35, §9192, 9209, 9261-c1; C39, §**9192, 9209, 9261.1;** C46, 50, 54, 58, 62, 66, §526.36, 527.7, 528.55; C71, 73, 75, 77, 79, 81, §524.501]

95 Acts, ch 148, §38

CS 95, §524.521

2012 Acts, ch 1017, §8, 18; 2013 Acts, ch 90, §159

Referred to in **§524.522**, **§524.527**

524.522 Terms of class or series determined by board of directors.

1. If the articles of incorporation provide for such, the board of directors may determine, in whole or in part, the preferences, limitations, and relative rights, within the limits set forth in **section 524.521**, of either of the following:

a. A class of shares before the issuance of any shares of that class.

b. One or more series within a class before the issuance of any shares of that series.

2. Each series of a class must be given a distinguishing designation.

3. All shares of a series must have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

4. Before issuing any shares of a class or series created under **this section**, the state bank shall deliver to the superintendent for filing with the secretary of state articles of amendment on forms prescribed by the superintendent, which are effective without shareholder action, that set forth all of the following:

a. The name of the state bank and the effective date of its articles of incorporation.

b. The text of the amendment determining the terms of the class or series of shares.

c. The date it was adopted.

d. A statement that the amendment was duly adopted by the board of directors.

95 Acts, ch 148, §39

524.523 Certificates representing shares.

1. The shares of a state bank incorporated as a stock corporation shall be represented by certificates signed by such officers, employees, or agents as are authorized by the articles of incorporation or bylaws to sign. If no contrary provisions are made in the articles of incorporation or bylaws, the certificates shall be signed by the president or a vice president and the cashier or an assistant cashier of the state bank.

2. Each share certificate must state on its face, at a minimum, all of the following:

a. The name of the issuing state bank and that it is organized under the laws of this state.

b. The name of the person to whom issued.

c. The number and class of shares and the designation of the series, if any, which the certificate represents.

d. The par value of each share represented by the certificate.

3. A state bank which is authorized to issue different classes of shares or different series within a class must do one of the following:

a. Summarize on the front or back of each certificate the designations, relative rights, preferences, and limitations applicable to each class; the variations in rights, preferences, and limitations determined for each series; and the authority of the board of directors to determine variations for future series.

b. State conspicuously on the front or back of each certificate that the state bank will furnish the shareholder this information on request in writing and without charge.

4. Each share certificate must be signed either manually or in facsimile by two officers as set forth in **subsection 1**, and may bear the corporate seal or its facsimile.

5. If the person who signed a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

6. A certificate shall not be issued for any share until such share is fully paid.

[C71, 73, 75, 77, 79, 81, §524.502]
95 Acts, ch 148, §40
CS 95, §524.523
2012 Acts, ch 1017, §9, 18
Referred to in **§524.521, §524.526**

524.524 Consideration for shares.

Except in the case of a distribution of shares authorized by **section 524.543** or shares issued upon exchanges or conversion, common or preferred shares of a state bank may be issued only for cash in an amount not less than that determined by the superintendent.

[C97, §1853; C24, 27, 31, 35, 39, §**9192;** C46, 50, 54, 58, 62, 66, §526.36; C71, 73, 75, 77, 79, 81, §524.503]
95 Acts, ch 148, §41
CS 95, §524.524

524.525 Subscription for shares before incorporation or organization.

1. A subscription for shares entered into before incorporation or organization of the state bank is irrevocable for six months unless the subscription agreement provides a longer or shorter period, or all subscribers agree to revocation.

2. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation or organization of the state bank unless the subscription agreement specifies the terms. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

3. Shares issued pursuant to subscriptions entered into before incorporation or organization of the state bank are fully paid and nonassessable when the state bank receives the consideration specified in the subscription agreement.

4. If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation or organization of the state bank, the state bank may do either of the following:

a. Collect the amount owed as any other debt.

b. Unless the subscription agreement provides otherwise, the state bank may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty days after the state bank sends written demand for payment to the subscriber.

[C71, 73, 75, 77, 79, 81, §524.504]
95 Acts, ch 148, §42
CS 95, §524.525
2004 Acts, ch 1141, §63
Referred to in **§524.527**

524.526 Fractional shares.

1. A state bank incorporated as a stock corporation may do any of the following:

a. Issue fractions of a share or pay in money the value of fractions of a share.

b. Arrange for disposition of fractional shares by the shareholders of the state bank.

c. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

2. Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by **section 524.523, subsection 2**.

3. The holder of a fractional share is entitled to exercise the rights of a shareholder,

including the right to vote, to receive dividends, and to participate in the assets of the state bank upon liquidation, but only if the scrip provides for such rights.

4. The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including either of the following:

a. That the scrip will become void if not exchanged for full shares before a specified date.

b. That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scrip holders.

95 Acts, ch 148, §43; 2012 Acts, ch 1017, §10, 18

524.527 Liability of shareholders or members.

1. A purchaser of the shares of a state bank incorporated as a stock corporation is not liable to the bank, its creditors, or depositors with respect to the shares except to pay the consideration for which the shares were authorized to be issued under **section 524.521**, or the consideration specified in the subscription agreement authorized under **section 524.525**.

2. Unless otherwise provided in the articles of incorporation, a shareholder of a state bank is not personally liable for the acts or debts of the state bank, its creditors, or depositors.

3. A member of a state bank incorporated as a mutual corporation is not personally liable for the acts or debts of the state bank, its creditors, or depositors.

[C71, 73, 75, 77, 79, 81, §524.505]
95 Acts, ch 148, §44
CS 95, §524.527
2012 Acts, ch 1017, §11, 18

524.528 Shareholders' preemptive rights.

1. Unless otherwise provided in **section 524.529**, the shareholders of a state bank do not have a preemptive right to acquire the state bank's unissued shares except to the extent provided in the articles of incorporation.

2. A statement included in the articles of incorporation that "the state bank elects to have preemptive rights", or words of similar import, means that, except to the extent otherwise expressly provided in the articles of incorporation, the following principles apply:

a. A shareholder of a state bank has a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire a proportional amount of the state bank's unissued shares upon the decision of the board of directors to issue such shares.

b. A shareholder may waive the shareholder's preemptive right. A waiver evidenced in writing is irrevocable even though it is not supported by consideration.

c. There is no preemptive right with respect to any of the following:

(1) Shares issued as compensation to directors, managers, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, managers, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(3) Shares authorized in articles of incorporation that are issued within six months from the effective date of incorporation or organization.

d. A holder of shares of any class without general voting rights but with preferential rights to distributions or assets has no preemptive rights with respect to shares of any class.

e. A holder of shares of any class with general voting rights but without preferential rights to distributions or assets has no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

f. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. For purposes of **this section**, *"shares"* includes a security convertible into or carrying a right to subscribe for or acquire shares.

[C71, 73, 75, 77, 79, 81, §524.506]
95 Acts, ch 148, §45
CS 95, §524.528
2004 Acts, ch 1141, §64

524.529 Preemptive rights for existing state banks.

Notwithstanding contrary provisions of **this chapter**, a state bank which was incorporated under **this chapter** prior to July 1, 1995, shall be governed by the following until July 1, 1998:

1. Except to the extent limited or denied by **this section** or by the articles of incorporation, shareholders have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

2. Unless otherwise provided in the articles of incorporation:

a. No preemptive right exists with respect to either of the following:

(1) Acquiring any shares issued to directors, officers, or employees pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote or when authorized by and consistent with a plan approved by such vote of the shareholders.

(2) Acquiring treasury shares of the state bank pursuant to **section 524.530**.

b. A holder of shares of any class that is preferred or limited as to dividends or assets is not entitled to any preemptive right.

c. A holder of shares of common stock is not entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of common stock or carrying a right to subscribe to or acquire shares of common stock.

d. A holder of common stock without voting power has no preemptive right to shares of common stock with voting power.

e. A preemptive right is only an opportunity to acquire shares or other securities under the terms and conditions as fixed by the board of directors for the purpose of providing a fair and reasonable opportunity for the exercise of the preemptive right.

95 Acts, ch 148, §46
Referred to in **§524.528**

524.530 State bank's acquisition of its own shares.

1. With the prior approval of the superintendent, a state bank may acquire its own shares. Shares acquired pursuant to **this section** constitute authorized but unissued shares except as provided in **subsection 2**.

2. If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the articles of incorporation.

95 Acts, ch 148, §47
Referred to in **§524.529**

524.531 Loaning on its own shares.

A state bank shall not make any loan or extension of credit on the security of the shares of its own capital, unless such security is necessary to prevent loss upon a debt previously contracted in good faith.

[C97, §1850; S13, §1850; C24, 27, §9184; C31, 35, §9221-c2; C39, §**9221.2;** C46, 50, 54, 58, 62, 66, §528.9; C71, 73, 75, 77, 79, 81, §524.507]
95 Acts, ch 148, §48
CS 95, §524.531

524.532 Meetings of shareholders.

Meetings of shareholders may be held at a place, within this state, as provided in the articles of incorporation or the bylaws, or as fixed in accordance with their provisions. In the absence of any such provision, all meetings shall be held at the principal place of business of the state bank. An annual meeting of the shareholders shall be held during the specific month as

shall be provided in the articles of incorporation, at the date and time as stated in or fixed in accordance with the bylaws. Failure to hold the annual meeting during the month shall not work a forfeiture or dissolution of the state bank. Special meetings of the shareholders may be called by the president, the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or other officers or persons as provided in the articles of incorporation or the bylaws.

[C71, 73, 75, 77, 79, 81, §524.508]
84 Acts, ch 1032, §2
CS 95, §524.532

524.533 Notice of shareholder meetings — waiver of notice generally.

1. Written notice stating the place, day and hour of a meeting of the shareholders and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than sixty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the cashier, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at the meeting. If mailed, the notice is deemed to be delivered when deposited in the United States mail addressed to the shareholder at the shareholder's address as it appears on the stock transfer books of the state bank with postage prepaid.

2. A shareholder may waive any notice required by **this chapter**, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the state bank for inclusion in the minutes or filing with the corporate records.

3. A shareholder's attendance at a meeting results in both of the following:

a. Waives the shareholder's objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting or promptly upon the shareholder's arrival objects to holding the meeting or transacting business at the meeting.

b. Waives the shareholder's objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

4. Unless the articles of incorporation or bylaws provide otherwise, the shareholders may permit any or all shareholders to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all shareholders participating may simultaneously hear each other during the meeting. A shareholder participating in a meeting as provided in **this subsection** is deemed to be present in person at the meeting.

[C71, 73, 75, 77, 79, 81, §524.509]
95 Acts, ch 148, §49
CS 95, §524.533
Referred to in **§524.314**, **§524.1502**, **§524.1508**

524.534 Action without meeting.

1. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted to be taken under **this chapter** at a special shareholders' meeting may be taken without a meeting if the action is consented to by all shareholders. The action must be evidenced by one or more written consents describing the action taken, signed by each shareholder, and included in the minutes or filed with the corporate records reflecting the action taken.

2. Action taken under **this section** is effective when the last shareholder signs the consent, unless the consent specifies a different effective date.

3. A written consent signed under **this section** has the effect of a meeting vote and may be described as such in any document.

95 Acts, ch 148, §50

524.535 Transfer books — fixing record date.

The board of directors of a state bank shall cause adequate stock transfer books to be maintained.

The bylaws or, in the absence of an applicable bylaw, the board of directors may fix, in advance, a date as the record date for any determination of shareholders entitled to notice of or to vote at a meeting of shareholders, the date to be not more than seventy days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring the determination of shareholders, is to be taken. If a record date is not fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for the determination of shareholders. If a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in **this section**, the determination applies to any adjournment of the meeting.

[C97, §1853; C24, 27, 31, 35, 39, §**9192;** C46, 50, 54, 58, 62, 66, §526.36; C71, 73, 75, 77, 79, 81, §524.510]

95 Acts, ch 148, §51

CS 95, §524.535

524.536 Voting list.

The officer or agent having charge of the stock transfer books for shares of a state bank shall, at least ten days before each meeting of shareholders, make a complete list of the shareholders entitled to vote at the meeting or any adjournment of the meeting, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten days prior to the meeting, shall be kept on file at the principal place of business of the state bank and is subject to inspection by a shareholder, or a shareholder's agent or attorney, at any time during usual business hours. The list of shareholders shall also be produced and kept open at the time and place of the meeting and is subject to the inspection of a shareholder, or a shareholder's agent or attorney, during the whole time of the meeting. The original stock transfer books are prima facie evidence as to who are the shareholders entitled to examine the list or transfer books or to vote at a meeting of shareholders. Failure to comply with the requirements of **this section** shall not affect the validity of action taken at a meeting of shareholders.

[C71, 73, 75, 77, 79, 81, §524.511]

95 Acts, ch 148, §52

CS 95, §524.536

524.537 Quorum of shareholders.

1. Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, constitutes a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the laws of this state or of the United States or by the articles of incorporation or bylaws.

2. Once a share is represented for any purpose at a meeting, it is deemed present for the purpose of determining a quorum for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

[C71, 73, 75, 77, 79, 81, §524.512]

95 Acts, ch 148, §53

CS 95, §524.537

524.538 Voting of shares.

1. Each outstanding share shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of a class or series may be limited or denied by the articles of incorporation.

2. Shares of a state bank purchased or acquired by such state bank pursuant to **this chapter** shall not be voted at any meeting and shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite number of shares.

3. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by the shareholder's duly authorized attorney in fact. A proxy shall not be valid after eleven months from the date of its execution.

4. At each election for directors every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by the shareholder for as many individuals as there are directors to be elected and for whose election the shareholder has a right to vote.

5. In an election of directors, a state bank shall not vote its own shares held by it as sole trustee unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how the shares shall be voted. However, shares held in trust by a state bank pursuant to an instrument in effect prior to January 1, 1970, under the terms of which the manner in which such shares shall be voted could not be determined by a donor or beneficiary of the trust, may be voted in an election of directors of a state bank upon petition filed by the state bank, to a court of competent jurisdiction, and the appointment by such court of an individual to determine the manner in which the shares shall be voted. When the shares of a state bank are held by such state bank and one or more persons as trustees, the shares may be voted by such other person or persons as trustees, in the same manner as if the person or persons were the sole trustee. Whenever shares cannot be voted by reason of being held by a state bank as sole trustee, the shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite number of shares.

[C97, §1847; S13, §1889-e; C24, 27, 31, 35, 39, §**9175, 9289;** C46, 50, 54, 58, 62, 66, §526.18, 532.6; C71, 73, 75, 77, 79, 81, §524.513]

95 Acts, ch 148, §54

CS95, §524.538

524.538A Voting by member of mutual corporation.

All holders of savings, demand, or other authorized accounts of a bank incorporated as or converted to be a mutual corporation are members of the state bank. In the consideration of all questions requiring action by the members of the state bank, each holder of an account shall be permitted to cast one vote for each one hundred dollars, or fraction thereof, of the withdrawal value of the member's account. No member, however, shall cast more than one thousand member votes. All accounts shall be nonassessable.

2012 Acts, ch 1017, §12, 18

524.539 Voting trust.

Any number of shareholders of a state bank may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the state bank at its principal place of business, by delivery of a copy of the voting trust agreement to the superintendent and by transferring their shares to such trustee or trustees for the purposes of the agreement. The counterpart of the voting trust agreement so deposited with the state bank is subject to examination for any proper purpose during usual business hours by a shareholder of the state bank, in person or by agent or attorney, or by any holder of a beneficial interest in the voting trust, in person or by agent or attorney.

This section shall not affect the validity of any agreement, relative to the voting of shares, in effect prior to July 1, 1995.

[C71, 73, 75, 77, 79, 81, §524.514]

95 Acts, ch 148, §55

CS 95, §524.539

Referred to in **§524.540**

524.540 Voting agreements.

1. Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under **this section** is not subject to **section 524.539**.

2. A voting agreement created under **this section** is subject to a judicial order for specific enforcement.

95 Acts, ch 148, §56

524.541 Lists — filing with superintendent.

Every state bank shall cause to be kept a full and correct list of the names and addresses of the officers, directors, and shareholders of the state bank, and the number of shares held by each. If an affiliate, as defined in **subsection 4** of **section 524.1101**, is a shareholder in a state bank, such list shall include the names, addresses, and percentage of ownership or interest in the affiliate of the shareholders, members, or other individuals possessing a beneficial interest in said affiliate.

A copy of the list as of the date of the adjournment of each annual meeting of shareholders, in the form of an affidavit signed by the president or cashier of the state bank, shall be transmitted to the superintendent within ten days after such annual meeting.

[C97, §1889; S13, §1889; C24, 27, 31, 35, 39, §**9255, 9256, 9257;** C46, 50, 54, 58, 62, 66, §528.47, 528.48, 528.49; C71, 73, 75, 77, 79, 81, §524.515]

CS 95, §524.541

2003 Acts, ch 4, §1

524.542 Dividends.

1. The board of directors of a state bank may, from time to time, declare, and the state bank may pay, dividends on its outstanding shares subject to the restrictions of **this chapter** and to the restrictions, if any, in its articles of incorporation. Dividends may be declared and paid only out of undivided profits and may be paid in cash or property.

2. A dividend shall not be declared or paid if restricted by the superintendent.

[C97, §1852, 1888; S13, §1850-a, 1852, 1889-l; C24, 27, 31, 35, §9188, 9191, 9262, 9262-c1, 9263, 9283, 9299; C39, §**9188, 9191, 9262, 9262.1, 9263, 9283, 9299;** C46, 50, 54, 58, 62, 66, §526.33, 526.35, 528.56, 528.57, 528.58, 528.85, 532.16; C71, 73, 75, 77, 79, 81, §524.516]

95 Acts, ch 148, §57

CS 95, §524.542

524.543 Distribution of shares of state bank.

1. The board of directors of a state bank may, subject to the provisions of **section 524.405**, distribute pro rata to holders of common shares authorized but unissued common shares of the state bank.

2. A distribution shall not be made in authorized but unissued shares of the state bank unless an amount equal to the total par value of the shares distributed is transferred to capital.

[C71, 73, 75, 77, 79, 81, §524.517]

95 Acts, ch 148, §58

CS 95, §524.543

Referred to in **§524.524**

524.544 Change of control — certificate of approval — shares as security — reports.

1. Whenever any person proposes to purchase or otherwise acquire directly or indirectly any of the outstanding shares of a state bank, and the proposed purchase or acquisition would result in control or in a change in control of the bank, the person proposing to purchase or acquire the shares shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control. The superintendent shall grant the certificate if the superintendent is satisfied that the person who proposes to obtain control of the bank is qualified by character, experience and financial responsibility to control and operate the bank in a sound and legal manner, and that the interests of the depositors, creditors and shareholders of the bank, and of the public generally, will not be jeopardized by the proposed

change of control. A person which will become a bank holding company upon completion of an acquisition shall make application to the superintendent for a certificate of approval as provided in **this section**. Any other bank holding company shall comply with **section 524.1804** in lieu of seeking a certificate of approval under **this section**. In any situation where the president or cashier of a bank has reason to believe any of the foregoing requirements have not been complied with, it shall be the duty of the president or cashier to promptly report in writing such facts to the superintendent upon obtaining knowledge thereof. As used in **this section**, the term *"control"* means the power, directly or indirectly, to elect the board of directors. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control thereof, or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the superintendent.

2. Whenever twenty-five percent or more of the outstanding voting shares of a state bank is used as security for any transaction, the person or persons owning such shares shall promptly report such transaction to the superintendent in writing.

3. The reports required by **subsections 1 and 2** of **this section** shall contain information, to the extent known by the person making the report, relative to the number of shares involved, the names of the sellers and purchasers or transferors and transferees, the purchase price, the name of the borrower, the amount, source, and terms of the loan, or other transaction, the name of the bank issuing the shares used as security, and the number of shares used as security.

4. The superintendent may require, at such times as the superintendent deems appropriate, the submission of a financial statement from a shareholder or shareholders of a state bank possessing, directly or indirectly, control of such state bank.

[C71, 73, 75, 77, 79, 81, §524.519]
CS 95, §524.544
99 Acts, ch 6, §1; 2013 Acts, ch 30, §128

524.545 Options for shares.

A state bank incorporated as a stock corporation may authorize the granting of options to officers and employees to purchase unissued shares of the state bank in accordance with a plan approved by the superintendent.

[C71, 73, 75, 77, 79, 81, §524.520]
95 Acts, ch 148, §59
CS 95, §524.545
2012 Acts, ch 1017, §13, 18

DIVISION VI

DIRECTORS

524.601 Board of directors.

1. The business and affairs of a state bank shall be managed by a board of five or more directors eighteen years of age or older, a majority of whom shall be residents of the state of Iowa and citizens of the United States.

2. The number of directors may be increased, or decreased to a number not less than five, by the shareholders at the annual meeting, or at a special meeting called for that purpose, but no decrease shall have the effect of shortening the term of an incumbent director.

[C97, §1845, 1866; C24, 27, §9163, 9164, 9165, 9166, 9210 – 9212, 9213; C31, 35, §9163, 9164, 9165, 9210 – 9212, 9217-c2; C39, §**9163, 9164, 9165, 9210 – 9212, 9217.2;** C46, 50, 54, 58, 62, 66, §526.8, 526.9, 526.10, 527.8 – 527.10, 528.2; C71, 73, 75, 77, 79, 81, §524.601]
95 Acts, ch 148, §60
Referred to in **§524.103**

524.602 Board of directors — election.

1. Except as provided in **subsection 2**, at the first annual meeting of shareholders and

at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting. Directors shall hold office for one year or until their successors have been elected and qualified, unless removed in accordance with provisions of **section 524.606**. When the shareholders determine the number of directors at an annual meeting or at a special meeting, they shall, at the same meeting, elect a director to fill each directorship.

2. The articles of incorporation of a state bank may authorize directors to be elected to staggered terms of three years. At the first meeting of shareholders or at an annual or special meeting where the shareholders adopt staggered terms for directors, and at each annual meeting thereafter, the shareholders shall elect directors to hold office for any vacant position. A director shall hold office until the director's term expires or until the director's successor has been elected and qualified, unless the director is removed in accordance with the provisions of **section 524.606**.

[C97, §1846; C24, 27, 31, 35, 39, §**9171, 9172;** C46, 50, 54, 58, 62, 66, §526.14, 526.15; C71, 73, 75, 77, 79, 81, §524.602]

95 Acts, ch 148, §61; 2010 Acts, ch 1028, §9

524.603 Vacancies.

Unless otherwise provided in the articles of incorporation, the bylaws, or by action of the shareholders, any vacancy occurring in the board of directors may be filled by the affirmative vote of the majority of the directors then in office, even if less than a quorum of the board of directors. A director so elected shall be elected for the unexpired term of the director's predecessor in office.

[C97, §1846; C24, 27, 31, 35, 39, §**9170;** C46, 50, 54, 58, 62, 66, §526.13; C71, 73, 75, 77, 79, 81, §524.603]

524.604 Duties and responsibilities.

1. The duties and responsibilities of a director or of the board of directors shall include, but are not limited to, the following:

a. Attendance at no less than seventy-five percent of the regular board meetings held during the calendar year.

b. Employment of officer personnel, and determination of their compensation.

c. Periodic review of the original records of the state bank, or comprehensive summaries thereof prepared by the officers of the state bank, pertaining to loans, discounts, security interests and investments in bonds and securities.

d. Review of the adequacy of the bank's internal controls and determination of the most appropriate method to satisfy the bank's audit needs pursuant to **section 524.608**.

e. Periodic review of the utilization of security measures for the protection of the state bank and the maintenance of reasonable insurance coverage.

2. Directors of a state bank shall discharge the duties of their position in good faith and with that diligence, care and skill which ordinarily prudent persons would exercise under similar circumstances in like positions. The directors shall have a continuing responsibility to assure themselves that the bank is being managed according to law and that the practices and policies adopted by the board are being implemented.

[C27, 31, 35, §9283-b23; C39, §**9283.71;** C46, 50, 54, 58, 62, 66, §531.23; C71, 73, 75, 77, 79, 81, §524.604]

95 Acts, ch 148, §62; 2012 Acts, ch 1023, §157

524.605 Liability of directors in certain cases.

1. In addition to any other liabilities imposed by law upon directors of a state bank:

a. Directors of a state bank who vote for or assent to the declaration of any dividend or other distribution of the assets of a state bank to its shareholders in willful or negligent violation of the provisions of **this chapter** or of any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the state bank for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the

amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of **this chapter** or of the restrictions in the articles of incorporation.

b. The directors of a state bank who vote for or assent to any distribution of assets of a state bank to its shareholders during the dissolution of the state bank without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the state bank shall be jointly and severally liable to the state bank for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the state bank are not thereafter paid and discharged.

c. The directors of a state bank who, willfully or negligently, vote for or assent to loans or extensions of credit in violation of the provisions of **this chapter**, shall be jointly and severally liable to the state bank for the total amount of any loss sustained.

d. The directors of a state bank who, willfully or negligently, vote for or assent to any investment of funds of the state bank in violation of the provisions of **this chapter** shall be jointly and severally liable to the state bank for the amount of any loss sustained on such investment.

2. A director of a state bank who is present at a meeting of its board of directors at which action on any matter is taken shall be presumed to have assented to the action taken unless the director's dissent shall be entered in the minutes of the meeting or unless the director shall file the director's written dissent to such action with the individual acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered or certified mail to the cashier of the state bank promptly after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

3. A director shall not be liable under **subsection 1,** paragraph *"a"*, *"b"*, *"c"*, or *"d"* if the director relied and acted in good faith upon information represented to the director to be correct by an officer or officers of such state bank or stated in a written report by a certified public accountant or firm of such accountants. No director shall be deemed to be negligent within the meaning of **this section** if the director in good faith exercised that diligence, care and skill which an ordinarily prudent person would exercise as a director under similar circumstances.

4. Any director against whom a claim shall be asserted under or pursuant to **this section** for the payment of a dividend or other distribution of assets of a state bank and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of the provisions of **this chapter**, in proportion to the amounts received by them respectively. Further, any director against whom a claim shall be asserted pursuant to **this section** for the payment of any liability imposed by **this section** shall be entitled to contribution from any director found to be similarly liable.

5. Whenever the superintendent deems it necessary the superintendent may require, after affording an opportunity for a hearing upon adequate notice, that a director or directors whom the superintendent reasonably believes to be liable to a state bank pursuant to **subsection 1,** paragraph *"a"*, *"b"*, *"c"*, or *"d"*, to place in an escrow account in an insured bank located in this state, as directed by the superintendent, an amount sufficient to discharge any liability which may accrue pursuant to **subsection 1,** paragraph *"a"*, *"b"*, *"c"*, or *"d"*. The amount so deposited shall be paid over to the state bank by the superintendent upon final determination of the amount of such liability. Any portion of the escrow account which is not necessary to meet such liability shall be repaid on a pro rata basis to the directors who contributed to the fund.

6. Any action seeking to impose liability under **this section**, other than liability for contribution, shall be commenced only within five years of the action complained of and not thereafter.

[C71, 73, 75, 77, 79, 81, §524.605]

95 Acts, ch 148, §63; 2012 Acts, ch 1023, §134

Referred to in **§524.302**, **§524.702**

524.606 Removal of directors.

1. At a meeting of shareholders expressly called for that purpose, individual directors or

the entire board of directors may be removed, with or without cause, by the affirmative vote of the holders of a majority of the shares entitled to vote at an election of directors. The vacancies created may be filled at the same meeting at which the removal proceedings take place.

2. *a.* If, in the opinion of the superintendent, any director of a state bank or bank holding company has violated any law relating to such state bank or bank holding company or has engaged in unsafe or unsound practices in conducting the business of such state bank or bank holding company, the superintendent may cause notice to be served upon such director, to appear before the superintendent to show cause why the director should not be removed from office. A copy of such notice shall be sent to each director of the state bank or bank holding company affected, by registered or certified mail. If, after granting the accused director a reasonable opportunity to be heard, the superintendent finds that the director violated any law relating to such state bank or bank holding company or engaged in unsafe or unsound practices in conducting the business of such state bank or bank holding company, the superintendent, in the superintendent's discretion, may order that such director be removed from office, and that such director be prohibited from serving in any capacity in any other bank, bank holding company, bank affiliate, trust company, or an entity licensed under **chapter 533A**, **533C**, **533D**, **535B**, **536**, or **536A**. A copy of the order shall be served upon such director and upon the state bank or bank holding company of which the person is a director at which time the person shall cease to be a director of the state bank or bank holding company. The resignation, termination of employment, or separation of such director, including a separation caused by the closing of the state bank or bank holding company at which the person serves as a director, does not affect the jurisdiction and authority of the superintendent to cause notice to be served and proceed under **this subsection** against the director, if the notice is served before the end of the six-year period beginning on the date the director ceases to be a director with the bank.

b. The decision of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act, **chapter 17A**. No action taken by a director prior to the director's removal shall be subject to attack on the ground of the director's disqualification.

[C31, 35, §9224-c2; C39, §**9224.2;** C46, 50, 54, 58, 62, 66, §528.18; C71, 73, 75, 77, 79, 81, §524.606]

91 Acts, ch 220, §3; 93 Acts, ch 28, §1; 95 Acts, ch 148, §64; 2003 Acts, ch 44, §114; 2006 Acts, ch 1015, §6; 2012 Acts, ch 1023, §157

Referred to in **§524.228**, **§524.602**, **§524.707**

Removal of officers and employees; **§524.707**

524.607 Meetings — waiver of notice — quorum.

The board of directors shall hold at least nine regular meetings each calendar year. No more than one regular meeting shall be held in any one calendar month. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit directors to participate in meetings through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present at the meeting.

A special meeting may be called by any executive officer or a director. Notice of a meeting shall be given to each director, either personally or by mail, at least two days in advance of the meeting. Notice of a regular meeting shall not be required if the articles of incorporation, bylaws, or a resolution of the board of directors provide for a regular monthly meeting date.

Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Whenever any notice is required to be given to any director of a state bank under the provisions of **this chapter** or under the provisions of the articles of incorporation or the bylaws of the state bank, a waiver thereof in writing, signed by the individual or individuals entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

A majority of the board of directors shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the bylaws. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the laws of this state or of the United States, the articles of incorporation or the bylaws.

[C97, §1846, 1871; S13, §1871; C24, 27, §9174, 9224; C31, 35, §9174, 9224-c1; C39, §**9174, 9224.1;** C46, 50, 54, 58, 62, 66, §526.17, 528.17; C71, 73, 75, 77, 79, 81, §524.607]

95 Acts, ch 148, §65

524.607A Action without meeting.

1. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted to be taken under **this chapter** at a board of directors' meeting may be taken without a meeting if the action is consented to by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

2. Action taken under **this section** is effective when the last director signs the consent, unless the consent specifies a different effective date.

3. A written consent signed under **this section** has the effect of a meeting vote and may be described as such in any document.

2004 Acts, ch 1141, §20

524.608 Auditing procedures.

In addition to any examination made by the banking division or other supervisory agency, the board of directors shall review the adequacy of the bank's internal controls and cause to be made no less frequently than once each calendar year additional auditing procedures that the board deems to be appropriate. The board shall determine the bank's audit needs and record in the board's minutes the extent to which audit procedures are to be employed. A report which summarizes significant audit findings shall be delivered to the superintendent as soon as practical upon completion.

The superintendent may require that more comprehensive auditing procedures be applied to a bank's account records when deemed necessary. These auditing procedures may range from limited scope agreed-upon procedures to an unqualified audit opinion.

[C97, §1871; S13, §1871; C24, 27, §9224, 9225; C31, 35, §9224-c1, 9225, 9226; C39, §**9224.1, 9225, 9226;** C46, 50, 54, 58, 62, 66, §528.17, 528.19, 528.20; C71, 73, 75, 77, 79, 81, §524.608]

95 Acts, ch 148, §66; 96 Acts, ch 1056, §8

Referred to in **§524.604**

524.609 Executive and other committees.

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the state bank shall have and may exercise all the authority of the board of directors, but no such committee shall have the authority of the board of directors in reference to amending the articles of incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease, exchange or other disposition of all or substantially all the property and assets of the state bank, recommending to the shareholders a voluntary dissolution of the state bank or a revocation thereof, or amending the bylaws of the state bank. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed by law.

[C71, 73, 75, 77, 79, 81, §524.609]

524.610 Compensation of directors.

The shareholders of a state bank shall fix the reasonable compensation of directors for their services as members of the board of directors. Subject to approval by the shareholders

at an annual or special meeting called for that purpose, the shareholders of a state bank may adopt a pension or profit-sharing plan, or both, or other plan of deferred compensation for directors, to which a state bank may contribute.

Directors may be reimbursed for reasonable expenses incurred in the performance of their duties.

[C97, §1869, 1871; S13, §1869, 1871; C24, 27, 31, 35, 39, §**9219, 9227;** C46, 50, 54, 58, 62, 66, §528.5, 528.21; C71, 73, 75, 77, 79, 81, §524.610; 81 Acts, ch 173, §1]

95 Acts, ch 148, §67; 2004 Acts, ch 1141, §21

Referred to in **§524.613**

524.611 Oath of directors.

Each director of a state bank, before acting as a director, shall take an oath that the director will diligently, faithfully and impartially perform the duties imposed upon the director by law, that the director will not knowingly violate or willingly permit a violation of any of the provisions of **this chapter**, and that the director meets the eligibility requirements of **this chapter**.

The oath shall be signed by the director, acknowledged before an officer authorized to take acknowledgments of deeds, and delivered to the superintendent.

[C97, §1845; C24, 27, §9167; C31, 35, 39, §**9224;** C46, 50, 54, 58, 62, 66, §528.16; C71, 73, 75, 77, 79, 81, §524.611]

524.612 Director dealing with state bank.

1. Subject to the provisions of **section 524.904**, a director of a state bank may receive loans and extensions of credit from a state bank of which the person is a director. A majority of the board of directors, voting in the absence of the applying director, shall give its prior approval to such loans and extensions of credit. Approval shall be recorded in the minutes.

2. A director shall not be permitted to receive any loan or extension of credit or use any property of a state bank of which the person is a director at a lower rate of interest or on terms which are more favorable than the terms offered to other customers under similar circumstances.

3. A director shall not receive terms or be paid a rate of interest on deposits, by a state bank of which the person is a director, which are more favorable than that provided to any other customer under similar circumstances.

4. A director shall not purchase or lease any assets from or sell or lease any assets to a state bank of which the person is a director except upon terms not less favorable to the state bank than those offered to or by other persons. All purchases or leases from and sales or leases to a director shall receive the prior approval of a majority of the board of directors voting in the absence of the interested director.

5. For the purpose of **this section** and **section 524.706**, loans and extensions of credit, as defined in **section 524.904**, to the spouse of a director or officer, other than a spouse who is legally separated from the director or officer under a decree of divorce or separate maintenance, or to minor children of a director or officer to the state bank in which the person is a director or officer, are considered loans and extensions of credit of such director or officer. However, loans and extensions of credit of a spouse are not considered loans and extensions of credit of the director or officer if all of the following apply:

a. Assets and liabilities of a director or officer are not included in the financial statement of the spouse and are not otherwise relied upon as a basis for loans or extensions of credit to the spouse.

b. The guarantee of a director or officer is not relied upon as a basis for loans or extensions of credit to the spouse.

c. The proceeds of the loans and extensions of credit to the spouse are not intermingled

with or used for a common purpose with the proceeds of loans and extensions of credit to the director or officer.

[C97, §1869; S13, §1869; C24, 27, 31, 35, 39, §**9220;** C46, 50, 54, 58, 62, 66, §528.6; C71, 73, 75, 77, 79, 81, §524.612]

91 Acts, ch 14, §1; 95 Acts, ch 148, §68

Referred to in §524.706, §524.1601, §524.1806

524.613 Prohibitions applicable to certain financial transactions involving directors.

1. A director of a state bank shall not receive anything of value, other than compensation and expense reimbursement authorized by **section 524.610**, for procuring, or attempting to procure, any loan or extension of credit, as defined in **section 524.904**, to the state bank or for procuring, or attempting to procure, an investment by the state bank.

2. A state bank shall not pay an overdraft of a director of the state bank on an account at the state bank, unless the payment of funds is made in accordance with either of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state bank.

[C31, 35, §9221-c3; C39, §**9221.3;** C46, 50, 54, 58, 62, 66, §528.10; C71, 73, 75, 77, 79, 81, §524.613]

95 Acts, ch 148, §69

Referred to in §524.1601, §524.1806

524.614 Honorary and advisory directors.

The board of directors of a state bank may appoint an individual as an honorary director, director emeritus, or member of an advisory board. An individual so appointed shall not vote at any meeting of the board of directors, shall not be counted in determining a quorum, and shall not be charged with any responsibilities or be subject to any liabilities imposed upon directors by **this chapter**.

[C71, 73, 75, 77, 79, 81, §524.614]

95 Acts, ch 148, §70

DIVISION VII

OFFICERS AND EMPLOYEES

524.701 Officers and employees.

1. A state bank shall have as officers a president, one vice president, and a cashier. No more than two of these positions may be held by the same individual. A state bank may have other officers as prescribed by the articles of incorporation or bylaws.

2. The board of directors shall elect one officer as the chief executive officer, who shall be a member of the board of directors.

3. Upon written notice by the superintendent, an individual who performs active executive or official duties for a state bank may be treated as an executive officer. A state bank may have a chairperson of the board of directors who, if the person does not perform executive or official duties or receive a salary, need not be considered an executive officer of the state bank.

4. An individual employed by a state bank, other than a director or an officer, is considered an employee for the purposes of **this chapter**.

[C97, §1845; C24, 27, 31, 35, 39, §**9162;** C46, 50, 54, 58, 62, 66, §526.7(4); C71, 73, 75, 77, 79, 81, §524.701]

91 Acts, ch 7, §1; 95 Acts, ch 148, §71

Referred to in §524.103

524.702 Officers — duties and liability.

1. All officers of a state bank shall have such authority and perform such duties in the management of the state bank as may be provided for in the articles of incorporation or the

bylaws, or as may be determined by a resolution of the board of directors not inconsistent with the bylaws or the articles of incorporation.

2. If an officer willfully or negligently submits any incorrect information to a director or directors, and action by the board of directors contrary to the provisions of **this chapter**, or of any restrictions in the articles of incorporation, is taken in reliance thereon, the officer shall be liable to the same extent as if the officer were a director voting for or assenting to such action, as provided in **section 524.605**. An officer shall also be liable to the extent of any loss sustained by the state bank as a result of the officer's willful or negligent violation of any provision of **this chapter**. The superintendent may require an officer or officers whom the superintendent reasonably believes to be liable to a state bank pursuant to **this section**, to place in an escrow account an amount sufficient to discharge such liability in the manner provided for in **section 524.605**. No officer shall be deemed to be negligent within the meaning of **this section** if the officer exercised that diligence, care and skill which an ordinarily prudent person would exercise as an officer under similar circumstances.

[C97, §1886; C24, 27, 31, 35, 39, §**9281;** C46, 50, 54, 58, 62, 66, §528.83; C71, 73, 75, 77, 79, 81, §524.702]

524.703 Officers and employees — employment and compensation.

The board of directors may fix the tenure and provide for the reasonable compensation of officers. The chief executive officer or the chief executive officer's designee shall determine the employees' compensation and tenure. Officers and employees may be reimbursed for reasonable expenses incurred by them on behalf of the state bank.

Subject to approval by the shareholders at an annual or special meeting called for the purpose, the board of directors of a state bank may adopt a pension or profit-sharing plan, or both, or other plan of deferred compensation, for both officers and employees, to which the state bank may contribute.

[C97, §1844, 1869; S13, §1869; C24, 27, 31, 35, 39, §**9162, 9219;** C46, 50, 54, 58, 62, 66, §526.7(4), 528.5; C71, 73, 75, 77, 79, 81, §524.703]

95 Acts, ch 148, §72; 2004 Acts, ch 1141, §22

Referred to in **§524.710**

524.704 Repealed by 95 Acts, ch 148, §135.

524.705 Bonds of officers and employees.

The officers and employees of a state bank having the care, custody, or control of any funds or securities for any state bank shall give a good and sufficient bond in a company authorized to do business in this state indemnifying the state bank against losses, which may be incurred by reason of any act or acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misapplication, misappropriation, or other unlawful act committed by such officer or employee directly or through connivance with others, until all of the officer's or employee's accounts with the state bank are fully settled and satisfied. The amounts and sureties are subject to the approval of the board of directors. The superintendent may require higher amounts as deemed necessary. If the agent of a bonding company issuing a bond under **this section** is an officer or employee of the state bank upon which the bond was issued, the bond so issued shall contain a provision that the bonding company shall not use, either as a grounds for rescission or as a defense to liability under the terms and conditions of the bond, the knowledge that the agent was so employed, whether or not the agent received any part of the premium for the bond as a commission.

[C97, §1845; C24, 27, §9169; C31, 35, §9169, 9217-c3; C39, §**9169, 9217.3;** C46, 50, 54, 58, 62, 66, §526.12, 528.3; C71, 73, 75, 77, 79, 81, §524.705]

95 Acts, ch 148, §73

524.706 Officer dealing with state bank.

1. *a.* An executive officer of a state bank may receive loans and extensions of credit, as defined in **section 524.904, subsection 1**, from a state bank of which the person is an executive officer, as follows:

(1) For amounts secured by a lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used as the officer's principal residence.

(2) For amounts to finance the education of a child or children of the executive officer.

(3) For amounts which in the aggregate do not at any one time exceed the higher of twenty-five thousand dollars or two and one-half percent of the bank's aggregate capital, but in no event more than one hundred thousand dollars.

(4) For amounts which do not, in the aggregate, exceed the principal amounts of segregated deposit accounts which the bank may lawfully set off. An interest in or portion of a segregated deposit account does not satisfy the requirements of this subparagraph if that interest or portion is also pledged to secure the payment of a debt or obligation of any person other than the executive officer. If the deposit is eligible for withdrawal before the secured loan matures, the bank shall establish internal procedures to prevent the release of the security without the bank's prior consent.

(5) For amounts secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other such obligations fully guaranteed by the United States as to principal and interest.

(6) For amounts secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States.

b. A state bank shall not loan money or extend credit to an executive officer of the state bank, and an executive officer of a state bank shall not receive a loan or extension of credit from the state bank, exceeding the limitations imposed by **this section** or for a purpose other than that authorized by **this section**. Such loans and extensions of credit shall not exceed an amount totaling more than fifteen percent of the aggregate capital of the state bank, except for loans and extensions of credit identified in paragraph "*a*", subparagraphs (4), (5), and (6). Any such loan on real property shall comply with **section 524.905**. A majority of the board of directors, voting in the absence of the applying executive officer, whether or not the executive officer is also a director, shall give its prior approval to any obligation of an executive officer to the state bank of which the person is an executive officer. Approval shall be recorded in the minutes.

2. **Section 524.612, subsection 2**, applies to executive officers, and **section 524.612, subsections 3 and 4**, apply to all officers and employees.

3. Upon the request of the board of directors, an officer or employee of a state bank shall submit to the board of directors a personal financial statement which shall include the names of all persons to whom the officer or employee is obligated, the dates, terms, and amounts of each loan or other obligation, the security for the loan or obligation, and the purpose for which the proceeds of the loan or other obligation has been or is to be used.

4. Upon the request of the superintendent, a director or an officer of a state bank shall submit to the superintendent a personal financial statement which shall show the names of all persons to whom the director or officer is obligated, the dates, terms, and amounts of each loan or other obligation, the security for the loan or obligation, and the purpose for which the proceeds of the loan or other obligation has been or is to be used.

[C97, §1869; S13, §1869; C24, 27, 31, 35, 39, §**9220;** C46, 50, 54, 58, 62, 66, §528.6; C71, 73, 75, 77, 79, 81, §524.706; 82 Acts, ch 1253, §1]

83 Acts, ch 101, §109; 84 Acts, ch 1032, §3; 91 Acts, ch 7, §2; 95 Acts, ch 148, §74; 96 Acts, ch 1056, §9

Referred to in **§524.612**, **§524.1601**, **§524.1806**

524.707 Removal of officers or employees.

1. An officer or employee may be removed by the board of directors whenever in its judgment the best interests of the state bank shall be served by such removal, but the removal shall be without prejudice to the contract rights, if any, of the officer or employee so removed. Election of an officer shall not of itself create contract rights.

2. **Section 524.606, subsection 2**, which provides for the removal of directors by the

superintendent, shall have equal application to officers and employees of a bank, bank holding company, bank affiliate, or trust company.

[C71, 73, 75, 77, 79, 81, §524.707]

91 Acts, ch 220, §4; 95 Acts, ch 148, §75; 2006 Acts, ch 1015, §7

Referred to in §524.228

524.708 Report of change in officer personnel.

A state bank shall promptly notify the superintendent of any change in the individuals holding the offices of chief executive officer or president.

[C97, §1889; S13, §1889; C24, 27, 31, 35, 39, §**9255, 9257;** C46, 50, 54, 58, 62, 66, §528.47, 528.49; C71, 73, 75, 77, 79, 81, §524.708]

95 Acts, ch 148, §76

524.709 Duty to make records available to superintendent.

The officers and employees of a state bank shall make all records of the state bank available to the superintendent for the purpose of examination or for any other reasonable purpose.

[C24, 27, 31, 35, 39, §**9147;** C46, 50, 54, 58, 62, 66, §524.20; C71, 73, 75, 77, 79, 81, §524.709]

Referred to in §524.1604

524.710 Prohibitions applicable to certain financial transactions involving officers and employees.

1. An officer or employee of a state bank shall not do any of the following:

a. Receive anything of value, other than compensation as authorized by **section 524.703**, for procuring, or attempting to procure, any loan or extension of credit, as defined in **section 524.904**, for the state bank or for procuring, or attempting to procure, an investment by the state bank.

b. Engage, directly or indirectly, in the sale of any kind of insurance, shares of stock, bonds or other securities, or real property, or procure or attempt to procure for a fee or other compensation, a loan or extension of credit for any person from a person other than the state bank of which the person is an officer or employee, or act in any fiduciary capacity, unless authorized to do so by the board of directors of the state bank which shall also determine the manner in which the profits, fees, or other compensation derived therefrom shall be distributed.

2. A state bank shall not pay an overdraft of an officer or employee of the state bank on an account at the state bank, unless the payment of funds is made in accordance with either of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state bank.

[C31, 35, §9221-c3, 9222-c2, 9283-c1; C39, §**9221.3, 9222.2, 9283.01;** C46, 50, 54, 58, 62, 66, §528.10, 528.12, 528.86; C71, 73, 75, 77, 79, 81, §524.710]

95 Acts, ch 148, §77

Referred to in §524.912, §524.1601

DIVISION VIII

GENERAL BANKING POWERS

524.801 General powers.

1. A state bank, unless otherwise stated in its articles of incorporation, shall have power:

a. To sue and be sued, complain and defend, in its corporate or organizational name.

b. To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

c. To purchase, take, receive, lease, or otherwise acquire, own, hold, improve and use

real or personal property, or an interest therein, in connection with the exercise of any power granted in **this chapter**.

d. To sell, convey, pledge, mortgage, grant a security interest, lease, exchange, transfer, and release from trust or mortgage or otherwise dispose of all or any part of real or personal property, or an interest therein, in connection with the exercise of any power granted in **this chapter**.

e. To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the state bank.

f. To make donations for the public welfare for religious, charitable, scientific or educational or community development purposes.

g. To indemnify a director, officer, or employee, or a former director, officer, or employee of the state bank in the manner and in the instances authorized by **sections 490.850 through 490.859**.

h. To elect officers or appoint agents of the state bank and define their duties and fix their compensation.

i. To cease its existence as a state bank in the manner provided for in **this chapter**.

j. To have and exercise all powers necessary and proper to effect any or all of the purposes for which the state bank is organized.

k. To contract indebtedness and incur liabilities to effect any or all of the purposes for which the state bank is organized, subject to the provisions of **this chapter**.

l. To set off a customer's account against any of the customer's debts or liabilities owed the state bank pursuant to an agreement entered into between the customer and the state bank.

2. The powers granted in **this section** shall not be construed as limiting or enlarging any grant of authority made elsewhere in **this chapter**, or as a limitation on the purposes for which a state bank may be incorporated or organized.

[C97, §1841, 1844; S13, §1889-j; C24, 27, 31, 35, 39, §**9156, 9162, 9267;** C46, 50, 54, 58, 62, 66, §526.2, 526.7, 532.14; C71, 73, 75, 77, 79, 81, §524.801]

83 Acts, ch 71, §5; 90 Acts, ch 1205, §39; 95 Acts, ch 148, §78, 79; 2002 Acts, ch 1154, §112, 125; 2004 Acts, ch 1141, §65, 66; 2012 Acts, ch 1023, §157

524.802 Additional powers of a state bank.

A state bank shall have in addition to other powers granted by **this chapter**, and subject to the limitations and restrictions contained in **this chapter**, the power to do all of the following:

1. Become an insured bank pursuant to the Federal Deposit Insurance Act and to take action as necessary to maintain the state bank's insured status.

2. Become a member of the federal reserve system, to acquire and hold shares in the appropriate federal reserve bank and to exercise all powers conferred on member banks by the federal reserve system that are not inconsistent with **this chapter**.

3. Become a member of a clearinghouse association.

4. Act as agent of the United States or of any instrumentality or agency of the United States.

5. Act as agent for a depository institution affiliate.

6. Buy and sell coin, currency, and bullion.

7. Organize, acquire, and hold shares of stock in an operations subsidiary, with the prior approval of the superintendent.

8. Engage in the brokerage of insurance and real estate subject to the prior approval of the superintendent. These activities are subject to regulation, including but not limited to regulation under subtitle 1 and subtitle 4 of this title.

9. Acquire and hold shares of stock in the appropriate federal home loan bank and to exercise all powers conferred on member banks of the federal home loan bank system that are not inconsistent with **this chapter**. A purchase of federal home loan bank shares which causes the state bank's holdings to exceed fifteen percent of aggregate capital requires the prior approval of the superintendent. In addition, a state bank may own federal home loan bank shares in an amount exceeding fifteen percent of the state bank's aggregate capital, but not exceeding twenty-five percent of the state bank's aggregate capital, if the ownership

of shares exceeding fifteen percent is needed to support the state bank's participation in the federal home loan bank's acquired member assets program as provided for in 12 C.F.R. pt. 955.

10. Acquire and hold shares of stock in the federal agricultural mortgage corporation or corporations engaged solely in the pooling of agricultural loans for the federal agricultural mortgage corporation guarantees.

11. Become a member of a bankers' bank.

12. Subject to the prior approval of the superintendent, organize, acquire, or invest in a subsidiary for the purpose of engaging in any of the following:

a. Nondepository activities that a state bank is authorized to engage in directly under **this chapter**.

b. Activities that a bank service corporation is authorized to engage in under state or federal law or regulation.

c. Activities authorized pursuant to **section 524.825**.

13. Acquire, hold, and improve real estate for the sole purpose of economic or community development, provided that the state bank's aggregate investment in all acquisitions and improvements of real estate under **this subsection** shall not exceed fifteen percent of a state bank's aggregate capital and shall be subject to the prior approval of the superintendent.

14. Provide customer financing for wind energy production facilities eligible for production tax credits pursuant to **chapter 476B** in a manner that maximizes the availability of production tax credits to the state bank, including structuring such financing as a membership investment whereby the state bank as equity investor may take a majority financial position, but not a management position, in each such facility, subject to the following:

a. Prior to providing financing, a creditworthiness review shall be conducted pursuant to the state bank's standard loan underwriting criteria.

b. The state bank shall not participate in the operation of the facility, the production of wind energy, or the sale of wind energy if such sale is contemplated by the customer.

c. If the facility does not perform as projected in the equity investment agreement, the state bank may either sell its interest in the facility or pursue liquidation.

d. The state bank shall not share in any appreciation in value of its interest in the facility or in any of the customer's real or personal assets.

e. At the end of any applicable holding period, the state bank shall sell at book value its ownership interest in the facility.

15. All other powers determined by the superintendent to be appropriate for a state bank.

[C97, §1841; SS15, §1889-o; C24, 27, 31, §9156, 9269, 9271; C35, §9156, 9269, 9271, 9283-g2, -g3, -g4, -g5; C39, §**9156, 9269, 9271, 9283.45, 9283.46, 9283.47, 9283.48;** C46, 50, 54, 58, 62, 66, §526.2, 528.67, 528.70, 530.2, 530.3, 530.4, 530.5; C71, 73, 75, 77, 79, 81, §524.802]

95 Acts, ch 148, §80; 2004 Acts, ch 1141, §23; 2008 Acts, ch 1128, §1, 15; 2012 Acts, ch 1017, §20

Referred to in **§524.825**, **§524.1007**, **§524.1008**

524.803 Business property of state bank.

1. A state bank shall have power to do all of the following:

a. Acquire and hold, or lease as lessee, such personal property as is used, or is to be used, in its operations.

b. Subject to the prior approval of the superintendent, acquire and hold, or lease as lessee, only such real property as is used, or is to be used, wholly or substantially, in its operations or acquired for future use.

c. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation engaged solely in holding or operating real property used wholly or substantially by a state bank in its operations or acquired for its future use.

d. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation organized solely for the purpose of providing data processing services, as such services are defined in **section 524.804**.

e. Subject to the prior approval of the superintendent, acquire and hold shares in

a corporation engaged in providing and operating facilities through which banks and customers may engage, by means of either the direct transmission of electronic impulses to and from a bank or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a bank, in transactions in which such banks are otherwise permitted to engage pursuant to applicable law.

2. The book value of all real and personal property acquired and held pursuant to **this section**, of all alterations to buildings on real property owned or leased by a state bank, of all shares in corporations acquired pursuant to paragraphs "*c*", "*d*", and "*e*" of **subsection 1**, and of any and all obligations of such corporations to the state bank, shall not exceed forty percent of the aggregate capital of the state bank or such larger amount as may be approved by the superintendent.

3. Any real property which is held by a state bank pursuant to **this section** and which it ceases to use for banking purposes, or is acquired for future use but not used within a reasonable period of time, shall be sold or disposed of by the state bank as directed by the superintendent.

[C97, §1851; C24, 27, 31, 35, 39, §**9190;** C46, 50, 54, 58, §526.34; C62, 66, §524.31, 526.34; C71, 73, 75, 77, 79, 81, §524.803]

87 Acts, ch 171, §13; 95 Acts, ch 148, §81

Referred to in **§524.804**

524.804 Data processing services.

A state bank which owns or leases equipment to perform such bank services as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or other clerical, bookkeeping, accounting, statistical, or other similar functions, may provide similarly related data processing services for others whether or not engaged in the business of banking. If a state bank holds shares in a corporation organized solely for the purpose of providing data processing services, pursuant to the authority granted by **section 524.803, subsection 1**, paragraph "*d*", other than a bank service corporation as defined by the laws of the United States, such corporation shall be authorized to perform services for the state bank owning such interest and for others, whether or not engaged in the business of banking.

[C62, 66, §524.31; C71, 73, 75, 77, 79, 81, §524.804]

95 Acts, ch 148, §82

Referred to in **§524.218**, **§524.803**, **§524.1201**

524.805 Deposits.

1. A state bank may receive money for deposit and may provide, by resolution of the board of directors, for the payment of interest on such deposit and shall repay the deposit in accordance with the terms and conditions of its acceptance.

2. The terms and conditions attending an agreement to pay interest on deposits shall be furnished to each customer at the time of the acceptance by the state bank of the initial deposit. No change made in the terms and conditions attending an agreement to pay interest which adversely affects the interest of a depositor shall be retroactively effective. Savings account depositors and holders and payees of automatic renewal time certificates of deposit shall be given reasonable notice of any change in the terms and conditions attending an agreement to pay interest prior to the effective date thereof.

3. A state bank may make such charges for the handling or custody of deposits as may be fixed by its board of directors provided that a schedule of the charges shall be furnished to the customer at the time of acceptance by the state bank of the initial deposit. Any change in the charges shall be furnished to the customer within a reasonable period of time before the effective date of the change.

4. A state bank shall not accept deposits or renew certificates of deposit when insolvent.

5. Except as provided in **section 524.807**, a state bank may receive deposits by or in the name of a minor and may deal with a minor with respect to a deposit account without the consent of a parent, guardian or conservator and with the same effect as though the minor

were an adult. Any action of the minor with respect to such deposit account shall be binding on the minor with the same effect as though an adult.

6. A state bank may receive deposits from a person acting as fiduciary or in an official capacity which shall be payable to such person in such capacity.

7. A state bank may receive deposits from a corporation, trust, estate, association or other similar organization which shall be payable to any person authorized by its board of directors or other persons exercising similar functions.

8. A state bank may receive deposits from one or more persons with the provision that upon the death of the depositors the deposit account shall be the property of the person or persons designated by the deceased depositors as shown on the deposit account records of the state bank. After payment by the state bank, the proceeds shall remain subject to the debts of the decedent and the payment of Iowa inheritance tax, if any. A state bank paying the person or persons designated shall not be liable as a result of that action for any debts of the decedent or for any estate, inheritance, or succession taxes which may be due this state.

[C97, §1844, 1848, 1849, 1852, 1854, 1884; S13, §1848, 1852; C24, 27, §9162, 9177, 9178, 9179, 9180, 9181, 9182, 9191, 9193, 9279; C31, 35, §9162, 9177, 9178, 9179, 9180, 9181, 9182, 9191, 9193, 9222-c1, 9279; C39, §**9162, 9177, 9178, 9179, 9180, 9181, 9182, 9191, 9193, 9222.1, 9279;** C46, 50, 54, 58, 62, 66, §526.7, 526.19 – 526.24, 526.35, 526.37, 528.11, 528.81; C71, 73, 75, 77, 79, 81, §524.805; 81 Acts, ch 173, §2]

95 Acts, ch 148, §83, 84; 2002 Acts, ch 1002, §1

Referred to in **§524.1608**

524.806 Deposit in the names of two or more individuals.

When a deposit is made in any state bank in the names of two or more individuals, payable to any one or more of them, or payable to the survivor or survivors, the deposit, including interest, or any part thereof, may be paid to any one or more of the individuals whether the others be living or not, and the receipt or acquittance of the individuals so paid is a valid and sufficient release and discharge to the state bank for any payment so made.

[S13, §1889-b; C24, 27, 31, 35, 39, §**9267;** C46, 50, 54, 58, 62, 66, §528.64; C71, 73, 75, 77, 79, 81, §524.806; 81 Acts, ch 173, §3]

524.807 Payment of deposited funds.

When any deposit shall be made by any individual in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given to the state bank, in the event of the death of the trustee, the same or any part thereof, together with interest thereon, may be paid to the individual for whom the deposit was made, or to the individual's legal representatives; provided that the individual for whom the deposit was made, if a minor, shall not draw the same during the individual's minority without the consent of the legal representatives of said trustee.

[SS15, §1889-d; C24, 27, 31, 35, 39, §**9287;** C46, 50, 54, 58, 62, 66, §532.4; C71, 73, 75, 77, 79, 81, §524.807]

Referred to in **§524.805**

524.808 Adverse claims to deposits.

1. A state bank shall not be required, in the absence of a court order or indemnity required by **this section**, to recognize any claim to, or any claim of authority to exercise control over, a deposit account made by a person or persons other than:

a. The customer in whose name the account is held by the state bank.

b. An individual or group of individuals who are authorized to draw on or control the account pursuant to certified corporate resolution or other written arrangement with the customer, currently on file with the state bank, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other customer, of which the state bank has received notice and which is not the subject of a dispute known to the state bank as to its original validity. The deposit account records of a state bank shall be presumptive evidence as to the identity of the customer on whose behalf the money is held.

2. To require a state bank to recognize an adverse claim to, or adverse claim of authority to control, a deposit account, whoever makes the claim must either:

a. Obtain and serve on the state bank an appropriate court order or judicial process directed to the state bank, restraining any action with respect to the account until further order of such court or instructing the state bank to pay the balance of the account, in whole or in part, as provided in the order or process; or

b. Deliver to the state bank a bond, in form and amount and with sureties satisfactory to the state bank, indemnifying the state bank against any liability, loss or expense which it might incur because of its recognition of the adverse claim or because of its refusal by reason of such claim to honor any check or other order of anyone described in paragraphs "*a*" and "*b*" of **subsection 1** of **this section**.

[C71, 73, 75, 77, 79, 81, §524.808]

524.809 Authority to lease safe deposit boxes.

1. A state bank may lease safe deposit boxes for the storage of property on terms and conditions prescribed by the state bank. The terms and conditions shall not bind a customer or the customer's successors or legal representatives to whom the state bank does not give notice of such terms and conditions by delivery of a lease and agreement in writing containing the terms and conditions. A state bank may limit its liability provided such limitations are set forth in the lease and agreement in at least the same size and type as the other substantive provisions of the lease and agreement.

2. The lease and agreement of a safe deposit box may provide that evidence tending to prove that property was left in any such box upon the last entry by the customer or the customer's authorized agent, and that the same or any part thereof was found missing upon subsequent entry, shall not be sufficient to raise a presumption that the same was lost by any negligence or wrongdoing for which such state bank is responsible, or put upon the state bank the burden of proof that such alleged loss was not the fault of the state bank.

3. A state bank may lease a safe deposit box to a minor. A state bank may deal with a minor with respect to a safe deposit lease and agreement without the consent of a parent, guardian or conservator and with the same effect as though the minor were an adult. Any action of the minor with respect to such safe deposit lease and agreement shall be binding on the minor with the same effect as though an adult.

4. A state bank which has on file a power of attorney of a customer covering a safe deposit lease and agreement, which has not been revoked by the customer, shall incur no liability as a result of continuing to honor the provisions of the power of attorney in the event of the death or incompetence of the donor of the power of attorney until it receives written notice of the death, or written notice of adjudication by a court of the incompetence of the customer and the appointment of a guardian or conservator.

[C31, 35, §9267-c1; C39, §**9267.1;** C46, 50, 54, 58, 62, 66, §528.65; C71, 73, 75, 77, 79, 81, §524.809]

95 Acts, ch 148, §85

Referred to in **§524.108**

524.810 Repealed by 97 Acts, ch 60, §1, 2.

524.810A Safe deposit box access.

1. A bank shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the bank. If a court order has not been delivered to the bank, the following persons may access and remove any or all contents of a safe deposit box located at a state bank which box is described in an ownership or rental agreement or lease between the state bank and a deceased owner or lessee:

a. A co-owner or co-lessee of the safe deposit box.

b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.

c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state bank of a certified copy of letters of appointment.

d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.

e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state bank of either of the following:

(1) A certification of trust pursuant to **section 633A.4604** which certifies that the trust property is reasonably believed to include property in the safe deposit box.

(2) A copy of the trust with an affidavit by the trustee which certifies that a copy of the trust delivered to the state bank with the affidavit is an accurate and complete copy of the trust, that the trustee is the duly authorized and acting trustee under the trust, that the trust property is reasonably believed to include property in the safe deposit box, and that, to the knowledge of the trustee, the trust has not been revoked.

2. A person removing any contents of a safe deposit box pursuant to **subsection 1** shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.

3. *a.* If a person authorized to have access under **subsection 1** does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state bank has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state bank. If no key is produced, the state bank may cause the safe deposit box to be opened and the state bank shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.

b. If a safe deposit box is opened pursuant to paragraph "*a*", the bank employees present at such opening shall do all of the following:

(1) Remove any purported will of the deceased owner or lessee.

(2) Unseal, copy, and retain in the records of the state bank a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the bank employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.

(3) The original of a purported will shall be sent by registered or certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee, or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by registered or certified mail or personally delivered to the district court in the county where the safe deposit box is located.

4. The state bank may rely upon published information or other reasonable proof of death of an owner or lessee. A state bank has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box. A state bank has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee. Upon compliance with the requirements of **subsection 1 or 3**, the state bank is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

99 Acts, ch 148, §1; 2004 Acts, ch 1102, §1, 2; 2005 Acts, ch 38, §55
Referred to in **§524.108**

524.811 Adverse claims to property in safe deposit and safekeeping.

1. A state bank shall not be required, in the absence of a court order or indemnity required by **this section**, to recognize any claim to, or claim of authority to exercise control over, property held in safe deposit or property held for safekeeping pursuant to **section 524.813** made by a person or persons other than:

a. The customer in whose name the property is held by the state bank.

b. An individual or group of individuals who are authorized to have access to the safe

deposit box, or to the property held for safekeeping, pursuant to a certified corporate resolution or other written arrangement with the customer, currently on file with the state bank, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other customer, of which the state bank has received notice and which is not the subject of a dispute known to the state bank as to its original validity. The safe deposit and safekeeping account records of a state bank shall be presumptive evidence as to the identity of the customer on whose behalf the money is held.

2. To require a state bank to recognize an adverse claim to, or adverse claim of authority to control, property held in safe deposit or for safekeeping, whoever makes the claim must either:

a. Obtain and serve on the state bank an appropriate court order or judicial process directed to the state bank, restraining any action with respect to the property until further order of such court or instructing the state bank to deliver the property, in whole or in part, as provided in the order or process; or

b. Deliver to the state bank a bond, in form and amount and with sureties satisfactory to the state bank, indemnifying the state bank against any liability, loss or expense which it might incur because of its recognition of the adverse claim or because of its refusal to deliver the property to any person described in paragraphs "*a*" and "*b*" of **subsection 1** of **this section**.

[C71, 73, 75, 77, 79, 81, §524.811]

Referred to in **§524.108**

524.812 Remedies and proceedings for nonpayment of rent on safe deposit box.

1. A state bank shall have a lien upon the contents of a safe deposit box for past due rentals and any expense incurred in opening the safe deposit box, replacement of the locks thereon, and of any sale made pursuant to **this section**. If the rental of any safe deposit box is not paid within six months from the day it is due, at any time thereafter and while such rental remains unpaid, the state bank shall mail a notice by certified or registered mail to the customer at the customer's last known address as shown upon the records of the state bank, stating that if the amount due for such rental is not paid on or before a specified day, which shall be at least thirty days after the date of mailing such notice, the state bank will remove the contents thereof and hold the same for the account of the customer.

2. If the rental for the safe deposit box has not been paid prior to the expiration of the period specified in a notice mailed pursuant to **subsection 1** of **this section**, the state bank may, in the presence of two of its officers, cause the box to be opened and the contents removed. An inventory of the contents of the safe deposit box shall be made by the two officers present and the contents held by the state bank for the account of the customer.

3. If the contents are not claimed within two years after their removal from the safe deposit box, the state bank may proceed to sell so much of the contents as is necessary to pay the past due rentals and the expense incurred in opening the safe deposit box, replacement of the locks thereon and the sale of the contents. The sale shall be held at the time and place specified in a notice published prior to the sale once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the state bank 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 state bank has its principal place of business. A copy of the notice so published shall be mailed to the customer at the customer's last known address as shown upon the records of the state bank. The notice shall contain the name of the customer and need only describe the contents of the safe deposit box in general terms. The contents of any number of safe deposit boxes may be sold under one notice of sale and the cost thereof apportioned ratably among the several safe deposit box customers involved. At the time and place designated in said notice the contents taken from each respective safe deposit box shall be sold separately to the highest bidder for cash and the proceeds of each sale applied to the rentals and expenses due to the state bank and the residue from any such sale shall be held by the state bank for the account of the customer or customers. Any amount so held as proceeds from such sale shall be credited with interest at the customary annual rate for savings accounts at said state bank,

or in lieu thereof, at the customary rate of interest in the community where such proceeds are held. The crediting of interest shall not activate said account to avoid an abandonment as unclaimed property under **chapter 556**.

4. Notwithstanding any of the provisions of **this section**, shares, bonds, or other securities which, at the time of a sale pursuant to **subsection 3** of **this section**, are listed on any established stock exchange in the United States, shall not be sold at public sale but may be sold through an established stock exchange. Upon the making of a sale of any such securities, an officer of the state bank shall execute and attach to the securities so sold an affidavit reciting facts showing that such securities were sold pursuant to **this section** and that the state bank has complied with the provisions of **this section**. The affidavit shall constitute sufficient authority to any corporation whose shares are so sold or to any registrar or transfer agent of such corporation to cancel the certificates of shares so sold and to issue a new certificate or certificates representing such shares to the purchaser thereof, and to any registrar, trustee, or transfer agent of registered bonds or other securities, to register any such bonds or other securities in the name of the purchaser thereof.

5. The proceeds of any sale made pursuant to **this section**, after the payment of any amounts with respect to which the state bank has a lien, any property which was not offered for sale and property which, although offered for sale, was not sold, shall be retained by the state bank until such time as the property is presumed abandoned according to the provisions of **section 556.2**, and shall thereafter be handled in accordance with the provisions of that chapter.

[C71, 73, 75, 77, 79, 81, §524.812]

95 Acts, ch 148, §86

Referred to in **§524.108**, **§524.813**

524.813 Authority to receive property for safekeeping.

1. A state bank may accept property for safekeeping if, except in the case of night depositories, it issues a receipt therefor. A state bank accepting property for safekeeping shall purchase and maintain reasonable insurance coverage to insure against loss incurred in connection with the acceptance of property for safekeeping. Property held for safekeeping shall not be commingled with the property of the state bank or the property of others.

2. A state bank shall have a lien upon any property held for safekeeping for past due charges for safekeeping and for expenses incurred in any sale made pursuant to **this subsection**. If the charge for the safekeeping of property is not paid within six months from the day it is due, at any time thereafter and while such charge remains unpaid, the state bank may mail a notice to the customer at the customer's last known address as shown upon the records of the state bank, stating that if the amount due is not paid on or before a specified day, which shall be at least thirty days after the date of mailing such notice, the state bank will remove the property from safekeeping and hold the same for the account of the customer. After the expiration of the period specified in such notice, if the charge for safekeeping has not been paid, the state bank may remove the property from safekeeping, cause the property to be inventoried and hold the same for the account of the customer. If the property is not claimed within two years after its removal from safekeeping the state bank may proceed to sell so much thereof as is necessary to pay the charge which remains unpaid and the expense incurred in making the sale in the manner provided for in **subsections 3 and 4 of section 524.812**. The proceeds of any sale made pursuant to **this section**, after payment of any amounts with respect to which the state bank has a lien, any property which was not offered for sale and property which, although offered for sale, was not sold, shall be retained by the state bank until such time as the property is presumed abandoned according to the provisions of **section 556.2**, and shall thereafter be handled in accordance with the provisions of that chapter.

[C71, 73, 75, 77, 79, 81, §524.813]

Referred to in **§524.811**

524.814 Loan or pledge of assets.

Pursuant to a resolution of its board of directors, a state bank may lend or pledge its assets for the following purposes, and for no other purposes:

1. To secure deposits of the state bank or a bank that is an affiliate of the state bank when a customer is required to obtain such security, or a bank is required to provide security, by the laws of the United States, by any agency or instrumentality of the United States, by the laws of the state of Iowa or another state, by the state board of regents, by a resolution or ordinance relating to the issuance of bonds, by the terms of any interstate compact, or by order of any court of competent jurisdiction. The lending of securities to a bank that is an affiliate, or the pledging of securities for the account of a bank that is an affiliate, shall be on terms and conditions that are consistent with safe and sound banking practices.

2. To secure transactions to hedge risks associated with interest rate exposure, subject to the approval of the superintendent.

3. To secure money borrowed by the state bank, provided that capital notes or debentures issued pursuant to **section 524.404** shall not in any event be secured by a pledge of assets or otherwise.

4. To secure participations sold to the federal agricultural mortgage corporation.

[S13, §1889-c; C24, 27, §9268; C31, 35, §9222-c2, 9222-c3, 9268; C39, §**9222.2, 9222.3, 9268;** C46, 50, 54, 58, 62, 66, §528.12, 528.13, 528.66; C71, 73, 75, 77, 79, 81, §524.814]

89 Acts, ch 257, §9; 2002 Acts, ch 1175, §92, 103; 2010 Acts, ch 1028, §10; 2010 Acts, ch 1189, §41

Referred to in **§524.1601**

524.815 Deposits by a state bank.

A state bank may deposit its funds in a depository which is selected by, or in a manner authorized by, the directors of a state bank and which is authorized by law to receive deposits and is subject to supervision by banking authorities of the United States or of any state, and, with the prior approval of the superintendent, in any other depository.

[C71, 73, 75, 77, 79, 81, §524.815]

524.816 Account insurance.

1. A bank organized under **this chapter**, as a condition of maintaining its privilege of organization after July 1, 1984 shall become an insured bank and shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the bank. The insurance shall be obtained from the federal deposit insurance corporation or another insurance plan approved by the superintendent, provided that each bank shall acquire deposit insurance from the appropriate agency of the federal government.

2. The superintendent may furnish to an official of an insurance plan by which the accounts of the bank are insured, any information relating to examinations and reports of the status of that bank for the purpose of determining availability of insurance to that bank.

84 Acts, ch 1196, §1; 91 Acts, ch 16, §1

524.817 Repealed by 81 Acts, ch 173, §11.

524.818 Indebtedness of state bank.

A state bank may borrow money or otherwise contract indebtedness for necessary expenses in managing and transacting its business, to maintain proper cash reserves, and for other corporate purposes, provided, however, the superintendent may prohibit or place restrictions upon money borrowed or other indebtedness which would, in the superintendent's judgment, constitute an unsafe or unsound practice in view of the condition and circumstances of the state bank. Nothing contained in **this section** shall limit the right of a state bank to issue capital notes or debentures pursuant and subject to the provisions of **section 524.404**.

[S13, §1889-j; C24, 27, 31, 35, 39, §**9297;** C46, 50, 54, 58, 62, 66, §532.14; C71, 73, 75, 77, 79, 81, §524.818]

524.819 Clearing checks at par.

Checks drawn on a state bank shall be cleared at par by the state bank on which they are drawn. **This section** shall not be applicable where checks are received by a bank as special collection items.

[C46, 50, 54, 58, 62, 66, §528.63; C71, 73, 75, 77, 79, 81, §524.819]

Referred to in **§524.1601**

524.820 Money received for transmission.

1. A state bank shall have power to receive money for transmission. Upon receiving money for transmission, a state bank shall give the customer a receipt setting forth the date of receipt of the money, the amount of the money in dollars and cents, and if the money is to be transmitted to a foreign country in the currency of such country, the amount of the money in such currency.

2. In an action by a customer against a state bank for recovery of money delivered for transmission, the burden of proof of delivery of the money in accordance with the instructions of the customer shall be on the state bank but an affidavit by an agent or depository of the state bank that the money was delivered in accordance with the instructions of the customer and a receipt for the money signed in the name of the recipient designated by the customer shall be prima facie evidence of the delivery of the money in accordance with the instructions of the customer.

[C71, 73, 75, 77, 79, 81, §524.820]

524.821 Electronic transmission of funds — restrictions.

1. A state bank may engage in any transaction incidental to the conduct of the business of banking and otherwise permitted by applicable law, by means of either the direct transmission of electronic impulses to or from customers and banks or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a bank. Subject to the provisions of **chapter 527**, a state bank may utilize, establish or operate, alone or with one or more other banks, savings and loan associations incorporated under federal law, credit unions incorporated under the provisions of **chapter 533** or federal law, corporations licensed under **chapter 536A**, or third parties, the satellite terminals permitted under **chapter 527**, by means of which customers and banks may transmit and receive electronic impulses constituting transactions pursuant to **this section**. However, such utilization, establishment, or operation shall be lawful only when in compliance with **chapter 527**. Nothing in **this section** shall be construed as authority for any person to engage in transactions not otherwise permitted by applicable law, nor shall anything in **this section** be deemed to repeal, replace or in any other way affect any applicable law or rule regarding the maintenance of or access to financial information maintained by any bank.

2. A state bank which offers its customers, or any of them, the opportunity to engage in transactions with or through the bank in the manner authorized by **subsection 1** shall not require a customer to deal with or through the bank in that manner in lieu of writing checks in the usual manner upon a conventional checking account, and shall not impose any extraordinary charge upon customers who choose to write checks in the usual manner upon a conventional checking account maintained at that bank. The term "*extraordinary charge*", as used in **this subsection**, is a charge in excess of a fair and reasonable charge, based upon the costs to the bank of providing and maintaining checking account services.

[C77, 79, 81, §524.821; 82 Acts, ch 1094, §1]

2012 Acts, ch 1017, §108

524.822 through 524.824 Reserved.

524.825 Securities activities.

1. Subject to the prior approval of the superintendent and as authorized by rules adopted by the superintendent pursuant to **chapter 17A**, a state bank or a subsidiary of a state bank organized or acquired pursuant to **section 524.802, subsection 12**, may engage in directly, or may organize, acquire, or invest in a subsidiary for the purpose of engaging in securities

activities and any aspect of the securities industry, including but not limited to any of the following:

a. Issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes, interest in mutual funds or money-market-type mutual funds, or other securities.

b. Organizing, sponsoring, and operating one or more mutual funds.

c. Acting as a securities broker-dealer licensed under **chapter 502**. The business relating to securities shall be conducted through, and in the name of, the broker-dealer. The requirements of **chapter 502** apply to any business of the broker-dealer transacted in this state.

2. A subsidiary engaging in activities authorized by **this section** may also engage in any other authorized activities under **section 524.802, subsection 12**.

87 Acts, ch 171, §14; 95 Acts, ch 148, §87; 2012 Acts, ch 1023, §157
Referred to in **§524.802**
Section not amended; editorial changes applied

DIVISION IX

INVESTMENT AND LENDING POWERS

524.901 Investments.

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

a. *"Investment securities"* means marketable obligations in the form of bonds, notes, or debentures which have been publicly offered, are of sound value, or are secured so as to be readily marketable at a fair value, and are within the four highest grades according to a reputable rating service or represent unrated issues of equivalent value. *"Investment securities"* does not include investments which are predominately speculative in nature.

b. *"Shares"* means proprietary units of ownership of a corporation.

2. A state bank shall not invest for its own account more than fifteen percent of its aggregate capital in investment securities of any one obligor. The par value of the investment securities shall be used to determine the amount that may be invested under **this subsection**, and any premium paid by a state bank for any investment securities shall not be included in determining the amount that may be invested under **this subsection**.

3. Subject only to the exercise of prudent banking judgment, a state bank may invest for its own account without regard to the limitation provided in **subsection 2** in any of the following:

a. Investment securities of the United States of which the payment of principal and interest is fully and unconditionally guaranteed by the United States.

b. Investment securities issued, insured, or guaranteed by a department or an agency of the United States government, provided that the securities, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the securities.

c. Investment securities of the federal national mortgage association or the association's successor.

d. Investment securities of the federal home loan mortgage corporation or the corporation's successor.

e. Investment securities of the student loan marketing association or the association's successor.

f. Investment securities of a federal home loan bank.

g. Investment securities of a farm credit bank.

h. Investment securities representing general obligations of the state of Iowa or of political subdivisions of the state.

4. A state bank may invest without limit in the shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., the portfolio of which is limited to United States investment securities described in **subsection 3** or repurchase agreements fully collateralized by United States investment securities described in **subsection 3**, if delivery of the collateral is taken either directly or through an authorized custodian and the dollar-weighted average maturity of

the portfolio is not more than five years. All other investments by a state bank in the shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., whose portfolios exclusively contain investment securities permissible pursuant to **subsections 2 and 3**, shall not exceed fifteen percent of the state bank's aggregate capital.

5. To the extent necessary to meet minimum membership or participation criteria, a state bank may invest for its own account in the shares of the appropriate federal reserve bank, the appropriate federal home loan bank, the federal national agricultural mortgage corporation or corporations engaged solely in the pooling of agricultural loans for federal agricultural mortgage corporation guarantees, and other similar investments acceptable to the superintendent and approved in writing by the superintendent. The bank's investment in the shares of each of the organizations is limited to fifteen percent of its aggregate capital or a higher amount as approved by the superintendent. Notwithstanding the specific requirements of **this section**, any shares of government-sponsored entities held by a state bank on or before July 1, 1995, shall be authorized.

6. A state bank, upon the approval of the superintendent, may acquire and hold the shares of any corporation which a state bank is authorized to acquire and hold pursuant to **this chapter**.

7. *a.* A state bank, upon the approval of the superintendent, may invest up to five percent of its aggregate capital in the shares or equity interests of any of the following:

(1) Economic development corporations organized under **chapter 496B** to the extent authorized by and subject to the limitations of that chapter.

(2) Community development corporations or community development projects to the same extent a national bank may invest in such corporations or projects pursuant to 12 U.S.C. §24.

(3) Small business investment companies as defined by the laws of the United States.

(4) Venture capital funds which invest an amount equal to at least fifty percent of a state bank's investment in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.

(5) Small businesses having a principal office within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. An investment by a state bank in a small business under this subparagraph shall be included with the obligations of the small business to the state bank that are incurred as a result of the exercise by the state bank of the powers conferred in **section 524.902** for the purpose of determining the total obligations of the small business pursuant to **section 524.904**. A state bank's equity interest investment in a small business, pursuant to this subparagraph, shall not exceed a twenty percent ownership interest in the small business.

(6) Other entities, acceptable to the superintendent, whose sole purpose is to promote economic or civic developments within a community or this state.

b. A state bank's total investment in any combination of the shares or equity interests of the entities identified in paragraph *"a"*, subparagraphs (1) through (6) shall be limited to fifteen percent of its aggregate capital.

c. For purposes of **this subsection**:

(1) The term *"equity interests"* means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

(2) The term *"small business"* means a corporation, partnership, proprietorship, or other entity which meets the appropriate United States small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state, or other investments which provide an economic benefit to the state.

(3) The term *"venture capital fund"* means a corporation, partnership, proprietorship, or

other entity whose principal business is or will be the making of investments in, and the providing of significant managerial assistance to, small businesses.

8. A state bank, in the exercise of the powers granted in **this chapter**, may purchase cash value life insurance contracts which may include provisions for the lump sum payment of premiums and which may include insurance against the loss of the lump sum payment. The cash value life insurance contracts purchased from any one company shall not exceed fifteen percent of aggregate capital of the state bank, and in the aggregate from all companies, shall not exceed twenty-five percent of aggregate capital of the state bank unless the state bank has obtained the approval of the superintendent prior to the purchase of any cash value life insurance contract in excess of this limitation.

9. A state bank may invest without limitation for its own account in futures, forward, and standby contracts to purchase and sell any of the instruments a state bank is authorized to purchase and sell, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with the level of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

[C97, §1844, 1850; S13, §1850; SS15, §1889-o; C24, 27, 31, 35, 39, §**9162, 9183, 9269, 9271;** C46, 50, 54, 58, 62, 66, §526.7, 526.25, 528.15, 528.67, 528.70; C71, 73, 75, 77, 79, 81, §524.901; 81 Acts, ch 173, §10; 82 Acts, ch 1017, §1, 2]

83 Acts, ch 124, §14, 15; 83 Acts, ch 152, §1; 85 Acts, ch 136, §3; 85 Acts, ch 252, §35; 87 Acts, ch 171, §15 – 19; 88 Acts, ch 1075, §1; 89 Acts, ch 49, §1; 89 Acts, ch 257, §10 – 15; 91 Acts, ch 220, §5, 6; 94 Acts, ch 1140, §1, 2; 95 Acts, ch 148, §88; 2010 Acts, ch 1028, §11; 2012 Acts, ch 1023, §135; 2014 Acts, ch 1092, §188

Referred to in **§12C.22**, **§524.904**, **§524.907**, **§524.1002**, **§524.1602**, **§536A.25**

Subsection 4 amended

524.902 General lending powers of a state bank.

1. A state bank may, subject to any applicable restrictions under other provisions of **this chapter**, loan money, extend credit and discount or purchase evidences of indebtedness and agreements for the payment of money.

2. Nothing in **this chapter** is deemed to permit a state bank to purchase a vendee's interest in a real property sales contract, provided, however, that a state bank may loan or extend credit on the security of such an interest.

[C97, §1844, 1850, 1870; S13, §1850; SS15, §1870; C24, 27, 31, 35, 39, §**9162, 9184, 9223;** C46, 50, 54, 58, 62, 66, §526.7, 526.29, 528.14; C71, 73, 75, 77, 79, 81, §524.902]

92 Acts, ch 1161, §3

Referred to in **§524.901**

524.903 Purchase and sale of drafts and bills of exchange.

1. A state bank shall have power to accept drafts drawn upon it having not more than six months after sight to run, exclusive of days of grace:

a. Which grow out of transactions involving the importation or exportation of goods.

b. Which grow out of transactions involving the domestic shipment of goods, provided documents of title are attached thereto at the time of acceptance.

c. In which a security interest is perfected at the time of acceptance covering readily marketable staples.

2. A state bank shall not accept such drafts in an amount which exceeds at any time in the aggregate for all drawers thirty percent of the state bank's aggregate capital.

3. A state bank may accept drafts, having not more than three months after sight to run, drawn upon it by banks or bankers in foreign countries, or in dependencies or insular possessions of the United States, for the purpose of furnishing dollar exchange as required by the usages of trade where the drafts are drawn in an aggregate amount which shall not at any time exceed for all such acceptance on behalf of a single bank or banker seven and

one-half percent of the state bank's aggregate capital, and for all such acceptances, thirty percent of the state bank's aggregate capital.

[C24, 27, 31, 35, 39, §**9272, 9273, 9274;** C46, 50, 54, 58, 62, 66, §528.71, 528.72, 528.73; C71, 73, 75, 77, 79, 81, §524.903]

95 Acts, ch 148, §89; 2004 Acts, ch 1141, §24

Referred to in **§524.904**, **§524.1602**

524.904 Loans and extensions of credit to one borrower.

1. For purposes of **this section**, *"loans and extensions of credit"* means a state bank's direct or indirect advance of funds to a borrower based on an obligation of that borrower to repay the funds or repayable from specific property pledged by the borrower and shall include:

a. A contractual commitment to advance funds, as defined in **section 524.103**.

b. A maker or endorser's obligation arising from a state bank's discount of commercial paper.

c. A state bank's purchase of securities subject to an agreement that the seller will repurchase the securities at the end of a stated period.

d. A state bank's purchase of third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period. The amount of the state bank's loan is the total unpaid balance of the paper owned by the state bank less any applicable dealer reserves retained by the state bank and held by the state bank as collateral security. Where the seller's obligation to repurchase is limited, the state bank's loan is measured by the total amount of the paper the seller may ultimately be obligated to repurchase. A state bank's purchase of third-party paper without direct or indirect recourse to the seller is not a loan or extension of credit to the seller.

e. An overdraft.

f. Amounts paid against uncollected funds.

g. Loans or extensions of credit that have been charged off the books of the state bank in whole or in part, unless the loan or extension of credit has become unenforceable by reason of discharge in bankruptcy; or is no longer legally enforceable because of expiration of the statute of limitations or a judicial decision; or forgiven under an executed written agreement by the state bank and the borrower.

h. The aggregate rentals payable by the borrower under leases of personal property by the state bank as lessor.

i. Loans and extensions of credit to one borrower consisting of investments in which the state bank has invested pursuant to **section 524.901**.

j. Amounts invested by a state bank for its own account in the shares and obligations of a corporation which is a customer of the state bank.

k. All other loans and extensions of credit to one borrower of the state bank not otherwise excluded by **subsection 7**, whether directly or indirectly, primarily or secondarily.

2. A state bank may grant loans and extensions of credit to one borrower in an amount not to exceed fifteen percent of the state bank's aggregate capital as defined in **section 524.103**, unless the additional lending provisions described in **subsection 3 or 4** apply.

3. A state bank may grant loans and extensions of credit to one borrower in an amount not to exceed twenty-five percent of the state bank's aggregate capital if any amount that exceeds the lending limitation described in **subsection 2** is fully secured by one or any combination of the following:

a. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable nonperishable staples when such goods are covered by insurance to the extent that insuring the goods is customary, and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

b. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable refrigerated or frozen staples when such goods are fully covered by insurance and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

c. Shipping documents or instruments that secure title to or give a first lien on livestock.

At inception, the current value of the livestock securing the loans must equal at least one hundred percent of the amount of the outstanding loans and extensions of credit. For purposes of **this section**, *"livestock"* includes dairy and beef cattle, hogs, sheep, and poultry, whether or not held for resale. For livestock held for resale, current value means the price listed for livestock in a regularly published listing or actual purchase price established by invoice. For livestock not held for resale, the value shall be determined by the local slaughter price. The state bank must maintain in its files evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current, taking into account the nature and frequency of turnover of the livestock to which the documents relate.

d. Mortgages, deeds of trust, or similar instruments granting a first lien on farmland or on single-family or two-family residences, subject to the provisions of **section 524.905**, provided the amount loaned shall not exceed fifty percent of the appraised value of such real property.

e. With the prior approval of the superintendent, other readily marketable collateral. The market value of the collateral securing the loans must at all times equal at least one hundred percent of the outstanding loans and extensions of credit.

4. A state bank may grant loans and extensions of credit to one borrower not to exceed thirty-five percent of the state bank's aggregate capital if any amount that exceeds the lending limitations described in **subsection 2 or 3** consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.

5. *a.* A state bank may grant loans and extensions of credit to a borrowing group in an amount not to exceed twenty-five percent of the state bank's aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to **subsection 2 or 3**, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member. A state bank may grant loans and extensions of credit to a borrowing group in an amount not to exceed thirty-five percent of aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to **subsection 2, 3, or 4**, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member. While not to be construed as an endorsement of the quality of any loan or extension of credit, the superintendent may authorize a state bank to grant loans and extensions of credit to a borrowing group in an amount not to exceed fifty percent of aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to **subsection 2 or 3**, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member.

b. For the purposes of **this subsection**, a borrowing group includes a person and any legal entity, including but not limited to corporations, limited liability companies, partnerships, trusts, and associations where the following exist:

(1) One or more persons own or control fifty percent or more of the voting securities or membership interests of the borrowing entity or a member of the group.

(2) One or more persons control, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of the borrowing entity or a member of the group.

(3) One or more persons have the power to vote fifty percent or more of any class of voting securities or membership interests of the borrowing entity or a member of the group.

c. To demonstrate compliance with **this subsection**, a state bank shall maintain in its files, at a minimum, all of the following:

(1) Documentation demonstrating the current ownership of the borrowing entity.

(2) Documentation identifying the persons who have voting rights in the borrowing entity.

(3) Documentation identifying the board of directors and senior management of the borrowing entity.

(4) The state bank's assessment of the borrowing entity's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment

shall include an analysis of the borrowing entity's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrowing entity by members of the borrowing group and third parties.

6. For purposes of **this section**:

a. Loans and extensions of credit to one person will be attributed to another person and will be considered one borrower if either of the following apply:

(1) The proceeds, or assets purchased with the proceeds, benefit another person, other than a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

(2) The expected source of repayment for each loan or extension of credit is the same for each borrower and no borrower has another source of income from which the loan may be fully repaid.

b. Loans and extensions of credit to a partnership, joint venture, or association are deemed to be loans and extensions of credit to each member of the partnership, joint venture, or association. This provision does not apply to limited partners in limited partnerships or to members of joint ventures or associations if the partners or members, by the terms of the partnership or membership agreement or other written agreement, are not to be held generally liable for the debts or actions of the partnership, joint venture, or association, and those provisions are valid under applicable law.

c. Loans and extensions of credit to members of a partnership, joint venture, or association are not attributed to the partnership, joint venture, or association unless loans and extensions of credit are made to the member to purchase an interest in the partnership, joint venture, or association, or the proceeds are used for a common purpose with the proceeds of loans and extensions of credit to the partnership, joint venture, or association.

d. Loans and extensions of credit to one borrower which are endorsed or guaranteed by another borrower will not be combined with loans and extensions of credit to the endorser or guarantor unless the endorsement or guaranty is relied upon as a basis for the loans and extensions of credit. A state bank shall not be deemed to have violated **this section** if the endorsement or guaranty is relied upon after inception of loans and extensions of credit, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to one borrower in the amount in excess of the limitations of **this section** within a reasonable time as fixed by the superintendent.

e. When the superintendent determines the interests of a group of more than one borrower, or any combination of the members of the group, are so interrelated that they should be considered a unit for the purpose of applying the limitations of **this section**, some or all loans and extensions of credit to that group of borrowers existing at any time shall be combined and deemed loans and extensions of credit to one borrower. A state bank shall not be deemed to have violated **this section** solely by reason of the fact that loans and extensions of credit to a group of borrowers exceed the limitations of **this section** at the time of a determination by the superintendent that the indebtedness of that group must be combined, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to the group in the amount in excess of the limitations of **this section** within a reasonable time as fixed by the superintendent.

7. Total loans and extensions of credit to one borrower for the purpose of applying the limitations of **this section** shall not include any of the following:

a. Additional funds advanced for taxes or for insurance if the advance is for the protection of the state bank.

b. Accrued and discounted interest on existing loans or extensions of credit.

c. Any portion of a loan or extension of credit sold as a participation by a state bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be deemed to exist only if the agreement also provides that in the event of a default or comparable event defined in the agreement, participants must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event. If an originating state bank funds the entire loan, it

must receive funding from the participants on the same day or the portions funded will be treated as loans by the originating state bank to the borrower.

d. Loans and extensions of credit to one borrower to the extent secured by a segregated deposit account which the state bank may lawfully set off. An amount held in a segregated deposit account in the name of more than one customer shall be counted only once with respect to all borrowers. Where the deposit is eligible for withdrawal before the secured loan matures, the state bank must establish internal procedures to prevent release of the security without the state bank's prior consent.

e. Loans and extensions of credit to one borrower which is a bank.

f. Loans and extensions of credit to one borrower which are fully secured by bonds and securities of the kind in which a state bank is authorized to invest for its own account without limitation under **section 524.901, subsection 3**.

g. Loans and extensions of credit to a federal reserve bank or to the United States, or of any department, bureau, board, commission, agency, or establishment of the United States, or to any corporation owned directly or indirectly by the United States, or loans and extensions of credit to one borrower to the extent that such loans and extensions of credit are fully secured or guaranteed or covered by unconditional commitments or agreements to purchase by a federal reserve bank or by the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States. Loans and extensions of credit to one borrower secured by a lease on property under the terms of which the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States, or the state of Iowa, or any political subdivision of the state, is lessee and under the terms of which the aggregate rentals payable to the borrower will be sufficient to satisfy the amount loaned are considered to be loans and extensions of credit secured or guaranteed as provided for in this paragraph.

h. Loans and extensions of credit to one borrower as the drawer of drafts drawn in good faith against actually existing values in connection with a sale of goods which have been endorsed by the borrower with recourse or which have been accepted.

i. Loans and extensions of credit arising out of the discount of commercial paper actually owned by a borrower negotiating the same and endorsed by a borrower without recourse and which is not subject to repurchase by a borrower.

j. Loans and extensions of credit drawn by a borrower in good faith against actually existing values and secured by nonnegotiable bills of lading for goods in process of shipment.

k. Loans and extensions of credit in the form of acceptances of other banks of the kind described in **section 524.903, subsection 3**.

l. Loans and extensions of credit of the borrower by reason of acceptances by the state bank for the account of the borrower pursuant to **section 524.903, subsection 1**.

m. A renewal or restructuring of a loan as a new loan or extension of credit following the exercise by a state bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the state bank to the borrower or unless a new borrower replaces the original borrower or unless the superintendent determines that the renewal or restructuring was undertaken as a means to evade the state bank's lending limit.

[C97, §1870; SS15, §1870; C24, 27, 31, 35, 39, §**9223;** C46, 50, 54, 58, 62, 66, §528.14, 528.15; C71, 73, 75, 77, 79, 81, §524.904; 81 Acts, ch 173, §4]

89 Acts, ch 257, §16; 95 Acts, ch 148, §90; 96 Acts, ch 1056, §10; 99 Acts, ch 6, §2; 2004 Acts, ch 1141, §25; 2011 Acts, ch 102, §3, 4, 10; 2012 Acts, ch 1021, §102 – 104; 2013 Acts, ch 5, §2; 2013 Acts, ch 30, §129, 130

Referred to in **§524.103**, **§524.612**, **§524.613**, **§524.706**, **§524.710**, **§524.901**, **§524.907**, **§524.1602**

524.905 Loans on real property.

1. *Rules for loans.* A state bank may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the superintendent under **chapter 17A**. The rules shall include provisions as necessary to ensure the safety and soundness of these loans, and to

ensure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

2. *Protective payments — escrow accounts.* A bank may include in the loan documents signed by the borrower a provision requiring the borrower to pay the bank each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the bank in order to better secure the loan. The bank shall be deemed to be acting in a fiduciary capacity with respect to these funds. A bank receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in **section 535.8, subsection 1**, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the bank pays to depositors of funds in ordinary savings accounts. A bank which maintains an escrow account in connection with any loan authorized by **this section**, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

3. *Escrow reports.* A state bank may act as an escrow agent with respect to real property, and may receive funds and make disbursements from escrowed funds in that capacity. The state bank shall be deemed to be acting in a fiduciary capacity with respect to these funds. A bank which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year. The summary shall be delivered or mailed not later than thirty days following the year to which disclosure relates. The summary shall contain all of the following information:

a. The name and address of the mortgagee.

b. The name and address of the mortgagor.

c. A summary of escrow account activity during the year as follows:

(1) The balance of the escrow account at the beginning of the year.

(2) The aggregate amount of deposits to the escrow account during the year.

(3) The aggregate amount of withdrawals from the escrow account for each of the following categories:

(a) Payments against loan principal.

(b) Payments against interest.

(c) Payments against real estate taxes.

(d) Payments for real property insurance premiums.

(e) All other withdrawals.

(4) The balance of the escrow account at the end of the year.

d. A summary of loan principal for the year as follows:

(1) The amount of principal outstanding at the beginning of the year.

(2) The aggregate amount of payments against principal during the year.

(3) The amount of principal outstanding at the end of the year.

4. *Marketability reports.* If the bank obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title of real property, the unmarketability of the title to real property, or the invalidity or unenforceability of liens or encumbrances upon real property, the bank shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

[C97, §1850; S13, §1850; C24, 27, 31, §9183, 9185, 9186; C35, §9183, 9183-g1, 9185, 9186; C39, §**9183, 9183.1, 9185, 9186;** C46, 50, 54, 58, 62, 66, §526.25, 526.26, 526.30, 526.31; C71,

73, 75, 77, 79, S79, §524.905; C81, §524.905, 535B.1 – 535B.14; 81 Acts, ch 173, §5, ch 174, §1, 7; 82 Acts, ch 1253, §2, 43]

83 Acts, ch 124, §16

Referred to in §524.706, §524.904, §524.907, §524.1602, §535B.11, §536A.20

Termination of installment contract, foreclosure of mortgage, or repossession of property during military service; application for relief respecting obligation or liability incurred prior to military service; §29A.102, 29A.103, 29A.104, 29A.105

524.906 Repealed by 89 Acts, ch 257, §33.

524.907 Participations.

A state bank may purchase and may sell, subject to the provisions of **sections 524.901**, **524.904**, and **524.905**, and to such regulations as the superintendent may prescribe, participations in one or more evidences of indebtedness and agreements for the payment of money, and pools of bonds, securities, evidences of indebtedness and agreements for the payment of money.

[C71, 73, 75, 77, 79, 81, §524.907]

89 Acts, ch 257, §17

Referred to in §524.1602

524.908 Leasing of personal property.

A state bank may make leases as authorized by rules adopted by the superintendent under **chapter 17A**.

[C71, 73, 75, 77, 79, 81, §524.908]

95 Acts, ch 148, §91

524.909 Loans and investments by officer.

No loan or investment shall be made from the funds of any state bank, directly or indirectly, except by an officer of the state bank who is authorized to do so by the board of directors.

[C97, §1869; S13, §1869; C24, 27, §9220; C31, 35, §9220, 9221-c3; C39, §**9220, 9221.3;** C46, 50, 54, 58, 62, 66, §528.6, 528.10; C71, 73, 75, 77, 79, 81, §524.909]

524.910 Property acquired to satisfy debts previously contracted.

A state bank may acquire property of any kind to secure, protect or satisfy a loan or investment previously made in good faith. Property acquired pursuant to **this section** shall be held and disposed of subject to the following conditions and limitations:

1. Shares in a corporation and other personal property, the acquisition of which is not otherwise authorized by **this chapter**, shall be sold or otherwise disposed of within six months unless the time is extended by the superintendent.

2. Real property purchased by a state bank at sales upon foreclosure of mortgages or deeds of trust owned by it, or acquired upon judgments or decrees obtained or rendered for debts due it, or real property conveyed to it in satisfaction of debts previously contracted in the course of its business, or real property obtained by it through redemption as a junior mortgagee or judgment creditor, shall be sold or otherwise disposed of by the state bank within five years after title is vested in the state bank, unless the time is extended by the superintendent.

[C97, §1851; C24, 27, 31, 35, 39, §**9190;** C46, 50, 54, 58, 62, 66, §526.34; C71, 73, 75, 77, 79, 81, §524.910]

85 Acts, ch 252, §34; 90 Acts, ch 1245, §1; 92 Acts, ch 1161, §4

524.911 Letters of credit.

A state bank shall have the power to issue, advise and confirm letters of credit authorizing a beneficiary thereof to draw on or demand payment of the state bank or its correspondent banks.

[C71, 73, 75, 77, 79, 81, §524.911]

524.912 Customer shall be free to obtain own insurance and loan.

In any case in which any kind of insurance is required by the state bank as a condition for lending money or in connection with any other transaction, the customer shall be free

to obtain such insurance from a source of the customer's selection. In the case of a sale of shares of stock, bonds, or other securities, or real property by an officer or employee, which is authorized by the board of directors of a state bank in the manner provided for in **section 524.710, subsection 1**, paragraph "*b*", the purchaser shall be free to obtain a loan for the purchase of such stock, bonds, or other securities, or real property from a lender of the purchaser's selection.

[C71, 73, 75, 77, 79, 81, §524.912]
98 Acts, ch 1036, §1

524.913 Consumer loans.

1. The provisions of the Iowa consumer credit code, **chapter 537**, shall apply to consumer loans made by a bank, and provisions of that code shall supersede any conflicting provision of **this chapter** with respect to consumer loans.

2. **This section** shall not apply to a consumer loan which is a real property improvement loan insured wholly or in part by the federal housing administration of the United States.

3. Notwithstanding **subsection 1**, a state bank may offer voluntary debt cancellation coverage, whether insurance or debt waiver, to consumers. The amount charged for the coverage shall be included in the amount financed, as defined in **section 537.1301**. However, the charge for such coverage may be excluded from the finance charge under the federal Truth in Lending Act as defined in **section 537.1302**.

[C75, 77, 79, 81, §524.913]
2003 Acts, ch 44, §114; 2006 Acts, ch 1039, §1

DIVISION X

FIDUCIARY POWERS

Referred to in **§633.203**

524.1001 Power to act as fiduciary.

When approving a proposed state bank, or at any time subsequent thereto upon amendment of its articles of incorporation, the superintendent may authorize a state bank to act in a fiduciary capacity. In determining whether the superintendent shall authorize a state bank to act in a fiduciary capacity, the superintendent may consider any of the relevant criteria referred to in **section 524.305**, and other appropriate facts and circumstances. In any fiduciary capacity in which a state bank may act pursuant to **this section**, it shall have all the rights and duties which an individual has in such capacity under applicable law and under the terms upon which the state bank is designated to act in such capacity. In authorizing a state bank to act in a fiduciary capacity, the superintendent may limit such authorization to such capacities as the superintendent deems appropriate.

[S13, §1889-g; SS15, §1889-d; C24, 27, 31, 35, 39, §**9284, 9291;** C46, 50, 54, 58, 62, 66, §532.1, 532.8; C71, 73, 75, 77, 79, 81, §524.1001]
Referred to in **§633.63**

524.1002 Actions required, permitted or prohibited in a fiduciary capacity.

The following rules shall be applicable to a state bank acting in the capacity of fiduciary:

1. A state bank shall segregate from its assets all property held as fiduciary, other than items in the course of collection, and shall keep separate records of all such property for each account for which such property is held.

2. Funds of a fiduciary account may be deposited in the state bank which is acting as fiduciary, either as demand deposits, savings deposits or time deposits having a single or multiple maturity.

3. A state bank may provide any oath or affidavit required of the state bank as fiduciary through an officer acting on behalf of the state bank.

4. A state bank shall not make a loan or extension of credit of any funds held as fiduciary, directly or indirectly, to or for the benefit of a director, officer or employee of the state bank or of an affiliate, a partnership or other unincorporated association of which such director,

officer or employee is a partner or member, or a corporation in which such officer, director or employee has a controlling interest, except a loan specifically authorized by the terms upon which the state bank was designated as fiduciary.

5. Unless otherwise authorized by the instrument creating the relationship, court order, or the laws of this state, a state bank, as fiduciary, shall not, directly or indirectly, sell any asset to the state bank for its own account, or to an officer, director, or employee, nor purchase from the state bank, or an officer, director, or employee, any asset or any security issued by the state bank except, in the case of a state bank, any of the following:

a. Investments in which a state bank may invest without limitation pursuant to **section 524.901, subsection 3**.

b. Assets purchased by the state bank pursuant to an agreement whereby the state bank is bound to sell, and the state bank as fiduciary is bound to buy, at a date not more than one year from the date of acquisition by the state bank, such assets at a price agreed upon at the time of acquisition by the state bank.

c. Any asset sold to the state bank for its own account or purchased in a fiduciary capacity from the state bank with the prior approval of the superintendent.

[S13, §1889-f; C24, 27, 31, 35, 39, §**9290;** C46, 50, 54, 58, 62, 66, §532.7; C71, 73, 75, 77, 79, 81, §524.1002]

98 Acts, ch 1036, §2

Referred to in **§524.1601**

524.1003 Removal of fiduciary powers.

If the superintendent at any time concludes that a state bank authorized to act in a fiduciary capacity is managing its accounts in an unsafe or unsound manner, or in a manner in conflict with the provisions of **this chapter**, and such state bank refuses to correct such practices upon notice to do so, the superintendent may forthwith direct that the state bank cease to act as a fiduciary and proceed to resign its fiduciary positions.

In such event the superintendent shall cause to be filed a petition in the district court in which the state bank has its principal place of business setting forth in general terms that the state bank is acting as fiduciary with respect to certain property and that it is necessary and desirable that successor fiduciaries be appointed. Upon the filing of the petition the court shall enter an order requiring all persons interested in all such fiduciary accounts to designate and take all necessary measures to appoint a successor fiduciary within a time to be fixed by the order, or to show cause why a successor fiduciary should not be appointed by the court. The court shall also direct the state bank to mail a copy of the order to each living settlor and each person known by the state bank to have a beneficial interest in the fiduciary accounts with respect to which the state bank is fiduciary and with respect to which it is being asked to resign its position. Such notice shall be mailed to the last known address of each such settlor and person having a beneficial interest as shown by the records of the state bank. The court may also order publication of such order to the extent that it deems necessary to protect the interests of absent or remote beneficiaries.

In any fiduciary account where those interested therein fail to cause a successor fiduciary to be appointed prior to the time fixed in such order, the court shall appoint a successor fiduciary. A successor fiduciary appointed in accordance with the terms of **this section** shall succeed to all the rights, powers, titles, duties and responsibilities of the state bank, except that the successor fiduciary shall not exercise powers given in the instrument creating the powers that by its express terms are personal to the fiduciary therein designated and except claims or liabilities arising out of the management of the fiduciary account prior to the date of the transfer.

[C39, §**9283.38;** C46, 50, 54, 58, 62, 66, §528.123; C71, 73, 75, 77, 79, 81, §524.1003]

Referred to in **§524.1004**

524.1004 Voluntary relinquishment of fiduciary capacity.

A state bank desiring to surrender its authorization to act in a fiduciary capacity, in order to relieve itself of the necessity of complying with the requirements attendant to such capacity, shall file with the superintendent a certified copy of a resolution signifying such intent. In

such event the state bank shall cause to be filed a petition in the district court in which the state bank has its principal place of business setting forth in general terms that the state bank is acting as fiduciary with respect to certain property and that it desires to cease its fiduciary function and resign its fiduciary positions. Upon the filing of the petition the relinquishment of fiduciary capacity and the appointment of a successor fiduciary or fiduciaries shall be handled in the same manner and with the same effect as provided for in **section 524.1003**, dealing with the removal of fiduciary powers.

After compliance with **this section** the state bank shall proceed to amend its articles of incorporation, in accordance with the provisions of **this chapter**, in a manner to indicate that it is no longer authorized to act in a fiduciary capacity. The superintendent shall approve the proposed amendment, in the manner provided for in **this chapter**, if the superintendent is satisfied that the state bank has properly relieved itself of its fiduciary responsibilities.

[S13, §1889-h; C24, 27, 31, 35, 39, §**9292;** C46, 50, 54, 58, 62, 66, §532.9; C71, 73, 75, 77, 79, 81, §524.1004]

524.1005 Trust companies operating on January 1, 1970.

1. A trust company existing and operating on January 1, 1970 and which was authorized to act only as a trust company may continue to act only in a fiduciary capacity according to the terms of its articles of incorporation. The articles of incorporation of the trust company may be renewed in perpetuity. When applicable, **this chapter** applies to the operations of the trust company. **Section 524.107, subsection 2**, regarding the use of the word "trust" does not apply to a trust company subject to **this section**.

2. Notwithstanding **subsection 1**, a trust company shall have the power to do all of the following:

a. Acquire and hold, or lease as lessee, such personal property as is used, or is to be used, in its operations.

b. Subject to the prior approval of the superintendent, acquire and hold, or lease as lessee, only such real property as is used, or is to be used, wholly or substantially, in its operations or acquired for future use.

c. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation engaged solely in holding and operating real property used wholly or substantially by the trust company in its operation or acquired for its future use.

d. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation organized to perform, or performing, functions or activities that may be performed by a trust company, including activities of a fiduciary, agency, or custodial nature, in the manner authorized by federal or state law, as long as the corporation is not a bank and does not make loans and investments or accept deposits other than the following permitted deposits:

(1) Deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law.

(2) Deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property; or for such owner or investor as agent or custodian of funds held for investment or as escrow agent; or for an issuer of, or broker or dealer in securities, in a capacity such as a paying agent, dividend disbursing agent, or securities clearing agent. However, such deposits shall not be employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account.

(3) Making call loans to securities dealers or purchasing money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. Such authorized loans and investments, however, shall not be used as a method of channeling funds to nontrust company affiliates of the trust company.

e. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation organized to perform, or performing, the collection of charges and premiums from, or adjusting and settling claims on, residents of this state and any other state where

authorized or qualified to conduct such activity, in connection with life or health insurance coverage or annuities.

[C97, §1889; S13, §1889; C24, 27, 31, 35, 39, §**9259, 9261;** C46, 50, 54, 58, 62, 66, §528.52, 528.54; C71, 73, 75, 77, 79, 81, §524.1005]

85 Acts, ch 25, §1; 89 Acts, ch 257, §18

Referred to in §524.103, §633.63

524.1006 Banks depositing securities in federally regulated corporation.

A bank, either acting as a fiduciary or holding securities as a managing agent or custodian, including a custodian for a fiduciary, may deposit securities in a federally regulated clearing corporation as provided in **section 633.89**, and in addition may deposit securities, the principal and interest of which the United States or any United States department, agency, or instrumentality either has agreed to pay or has guaranteed, in a federal reserve bank.

The records of a depositing bank at all times must identify the persons on whose behalf securities have been deposited in a federal reserve bank. An interest in deposited securities may be transferred by entry on the books of the federal reserve bank without physical delivery of the securities. A depositing bank is subject to rules adopted by the superintendent of banking, with respect to state banks, and by the comptroller of the currency, with respect to national banking associations. On demand by the owner, a bank acting as a managing agent or as a custodian shall identify in writing the securities deposited in a federal reserve bank for the account of the owner. On demand by any party to the accounting of a bank acting as a fiduciary, the bank shall identify in writing the securities deposited in a federal reserve bank for its account as fiduciary.

This section applies regardless of the date of the agreement, instrument, or court order under which the bank was appointed.

[C75, 77, 79, 81, §524.1006]

524.1007 Succession of fiduciary accounts to an affiliate.

1. A state bank authorized to act in a fiduciary capacity may enter into an agreement for the succession of fiduciary accounts with any of its affiliates which are authorized to act in a fiduciary capacity. In the agreement the succeeding affiliate may agree to succeed the relinquishing affiliate as a fiduciary to those fiduciary accounts which are designated in the agreement. The designation of accounts may be by general class or description and may include fiduciary accounts subject and not subject to court administration and fiduciary accounts to arise in the future under wills, trusts, court orders, or other documents under which the relinquishing affiliate is named as a fiduciary or is named to become a fiduciary upon the death of a testator or settlor or upon the happening of any other subsequent event. The agreement shall provide that the succeeding affiliate maintain one or more employees or agents at the office of the relinquishing affiliate in order to facilitate the continued servicing of the designated fiduciary accounts. The relinquishing affiliate shall mail a notice of the succession to all persons having an interest in a fiduciary account at the then last known address, and shall publish a notice of the succession to fiduciary accounts in a newspaper published in the county of the principal place of business of the relinquishing affiliate. After the publication, the succeeding affiliate shall, without further notice, approval or authorization, succeed to the relinquishing affiliate as to the fiduciary accounts and the fiduciary powers, rights, privileges, duties, and liabilities for the fiduciary accounts. On the effective date of the succession to fiduciary accounts, the relinquishing affiliate is released from the fiduciary duties under the fiduciary accounts and shall discontinue its exercise of trust powers to the fiduciary accounts. **This subsection** does not absolve a bank or affiliate from liabilities arising out of a breach of fiduciary duty occurring prior to the effective date of the succession to fiduciary accounts.

2. Within sixty days after the mailing and publication of the notice, a person with an interest in a fiduciary account included within the notice and agreement required by **subsection 1** may apply to the district court in the county in which the notice is published for the appointment of a new fiduciary on the ground that the succeeding fiduciary will adversely affect the administration of the fiduciary account. After notice to all interested

parties and a hearing on the issues, the court may appoint a new fiduciary to replace the succeeding fiduciary if it finds that the substitution of the succeeding fiduciary will adversely affect the administration of the account and that the appointment of a new fiduciary would be in the best interests of the beneficiaries of the fiduciary account. **This subsection** is in addition to **section 633.65** governing the removal of a fiduciary.

3. For purposes of **subsection 1**, "*affiliate*" means a trust company subsidiary authorized by the superintendent pursuant to **section 524.802, subsection 12**, paragraph "*b*", and located in this state, a state bank located in this state, or a national bank located in this state and organized under 12 U.S.C. §21, that are under the common ownership of a bank holding company as defined in **section 524.1801**.

4. The privilege extended to a state bank by **this section** is also extended on the same terms and conditions to a national bank located in this state and organized under 12 U.S.C. §21 et seq. to engage generally in the banking business.

84 Acts, ch 1167, §1; 96 Acts, ch 1056, §11

524.1008 Succession of fiduciary accounts to an independent bank.

1. *a.* A state bank authorized to act in a fiduciary capacity may enter into an agreement for the succession of fiduciary accounts with a trust company subsidiary authorized by the superintendent pursuant to **section 524.802, subsection 12**, paragraph "*b*", or one or more other state or national banks that are located in this state and authorized to act in a fiduciary capacity. In the agreement, the succeeding bank or trust company subsidiary may agree to succeed the relinquishing bank as a fiduciary with respect to those fiduciary accounts which are designated in the agreement. The designation of accounts may be by general class or description and may include fiduciary accounts subject and not subject to court administration and fiduciary accounts to arise in the future under wills, trusts, court orders, or other documents under which the relinquishing bank is named as a fiduciary or is named to become a fiduciary upon the death of a testator or settlor or upon the happening of any other subsequent event. The agreement shall provide that one of the following applies:

(1) That the succeeding bank or trust company subsidiary maintain one or more employees or agents at the office of the relinquishing bank in order to facilitate the continued servicing of the designated fiduciary accounts.

(2) That the relinquishing bank act as an agent of the succeeding bank or trust company subsidiary with respect to the fiduciary accounts that are subject to the agreement, and the relinquishing bank as an agent may perform services other than fiduciary services with respect to those accounts.

b. If the relinquishing bank is an agent under the alternative specified in paragraph "*a*", subparagraph (2), then the relinquishing bank shall disclose to its customers that it is acting as an agent of the succeeding bank or trust company subsidiary. The relinquishing bank shall mail a notice of the succession to all persons having an interest in a fiduciary account at their last known address, and shall publish a notice of the succession to fiduciary accounts in a newspaper published in the county of the principal place of business of the relinquishing bank. After the publication, the succeeding bank or trust company subsidiary shall, without further notice, approval or authorization succeed the relinquishing bank as to the fiduciary accounts and the fiduciary powers, rights, privileges, duties, and liabilities for the fiduciary accounts. On the effective date of the succession to fiduciary accounts, the relinquishing bank is released from fiduciary duties under the fiduciary accounts and shall discontinue its exercise of trust powers to the fiduciary accounts. **This subsection** does not absolve a relinquishing bank from liabilities arising out of a breach of fiduciary duty occurring prior to the succession of fiduciary accounts.

2. Within sixty days after the mailing and publication of the notice, a person with an interest in a fiduciary account included within the notice and agreement required by **subsection 1** may apply to the district court in the county in which the notice is published for the appointment of a new fiduciary on the ground that the succeeding fiduciary will adversely affect the administration of the fiduciary account. After notice to all interested parties and a hearing on the issues, the court may appoint a new fiduciary to replace the succeeding fiduciary if it finds that the substitution of the succeeding fiduciary will adversely

affect the administration of the account and that the appointment of a new fiduciary would be in the best interests of the beneficiaries of the fiduciary account. **This subsection** is in addition to **section 633.65** governing the removal of a fiduciary.

3. A bank shall not agree to relinquish fiduciary accounts to or act as an agent of more than one succeeding fiduciary at any one time.

4. The privilege of succeeding to fiduciary accounts that is extended to a state bank or trust company subsidiary by **subsection 1** is also extended on the same terms and conditions to a national bank located in this state and organized under 12 U.S.C. §21.

84 Acts, ch 1167, §2; 96 Acts, ch 1056, §12; 2013 Acts, ch 90, §160

524.1009 Succession to fiduciary accounts and appointments — application for appointment of new fiduciary.

1. If a party to a plan of merger was authorized to act in a fiduciary capacity and if the resulting state or national bank is similarly authorized, the resulting state or national bank shall be automatically substituted by reason of the merger as fiduciary of all accounts held in that capacity by such party to the plan, without further action and without any order or decree of any court or public officer, and shall have all the rights and be subject to all the obligations of such party as fiduciary.

2. No designation, nomination, or appointment as fiduciary of a party to a plan of merger shall lapse by reason of the merger. The resulting state or national bank, if authorized to act in a fiduciary capacity, shall be entitled to act as fiduciary pursuant to each designation, nomination, or appointment to the same extent as the party to the plan so named could have acted in the absence of the merger.

3. Any person with an interest in an account held in a fiduciary capacity by a party to a plan of merger may, within sixty days after the effective date of the merger, apply to the district court in the county in which the resulting state or national bank has its principal place of business, for the appointment of a new fiduciary to replace the resulting state or national bank on the ground that the merger will adversely affect the administration of the fiduciary account. The court shall have the discretion to appoint a new fiduciary to replace the resulting state or national bank if it should find, upon hearing after notice to all interested parties, that the merger will adversely affect the administration of the fiduciary account and that the appointment of a new fiduciary will be in the best interests of the beneficiaries of the fiduciary account. This provision is in addition to any other provision of law governing the removal of fiduciaries and is subject to the terms upon which the party to the plan which held the fiduciary account was designated as fiduciary.

95 Acts, ch 148, §92

Referred to in **§524.1418**

DIVISION XI

AFFILIATES

524.1101 Definitions.

For the purposes of **this chapter**, an *"affiliate"* of a state bank shall include any corporation, trust, estate, association, or other similar organization:

1. Of which a state bank, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty percent of the number of shares voted for the election of its directors, trustees, or other individuals exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other individuals exercising similar functions.

2. Of which control is held, directly or indirectly, through share ownership or in any other manner, by the shareholders of a state bank who own or control either a majority of the shares of such state bank or more than fifty percent of the number of shares voted for the election of directors of such state bank at the preceding election, or by trustees for the benefit of the shareholders of any such state bank.

3. Of which a majority of its directors, trustees, or other individuals exercising similar functions are directors of any one state bank.

4. Which owns or controls, directly or indirectly, either a majority of the voting shares of a state bank or more than fifty percent of the number of shares voted for the election of directors of a state bank at the preceding election, or controls in any manner the election of a majority of the directors of a state bank, or for the benefit of whose shareholders or members all or substantially all of the outstanding voting shares of a state bank is held by trustees.

5. Which is a bank holding company, as defined by the laws of the United States, of which a state bank is a subsidiary, and any other subsidiary, as defined by the laws of the United States, of a bank holding company.

[C71, 73, 75, 77, 79, 81, §524.1101]

Referred to in §12C.22, §524.541, §537.1301

524.1102 Loans and other transactions with affiliates.

1. A state bank shall not make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or invest any of its funds in the shares, bonds, capital securities, or other obligations of an affiliate, or accept the shares, bonds, capital securities, or other obligations of an affiliate as collateral security for advances made to any customer, if the aggregate amount of the loans, extensions of credit, repurchase agreements, investments and advances against such collateral security will exceed:

a. In the case of any one affiliate, ten percent of the aggregate capital of the state bank.

b. In the case of all such affiliates, twenty percent of the aggregate capital of the state bank.

2. Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate shall be secured by collateral in the form of shares of stock, bonds, capital securities or other such obligations having a market value at the time of making the loan or extension of credit of at least twenty percent more than the amount of the loan or extension of credit, or of at least ten percent more than the amount of the loan or extension of credit if it is secured by obligations of any state, or of any political subdivision or agency of the state, or of at least one hundred percent of the amount of the loan or extension of credit if it is secured by a segregated deposit account which the state bank may set off.

3. A loan or extension of credit to a director, officer, clerk, or other employee or any representative of any affiliate is deemed to be a loan to the affiliate to the extent that the proceeds of such loan are used for the benefit of, or transferred to, the affiliate.

4. The provisions of **this section** shall not apply to loans or extensions of credit fully secured by obligations of the United States, or the farm credit banks, or the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest. The provisions of **this section** shall not apply to indebtedness of any affiliate for unpaid balances due a state bank on assets purchased from the state bank.

5. For purposes of **this section**, the terms *"extension of credit"* and *"extensions of credit"* are deemed to include any purchase of securities under a repurchase agreement, other assets or obligations under a repurchase agreement, and the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse.

[C71, 73, 75, 77, 79, 81, §524.1102]

89 Acts, ch 257, §19, 20; 91 Acts, ch 20, §1; 95 Acts, ch 148, §93; 2012 Acts, ch 1023, §157

Referred to in §524.1103, §524.1104, §524.1602

524.1103 Exceptions.

1. The provisions of **section 524.1102** shall not apply to any affiliate:

a. Engaged solely in holding or operating real estate used wholly or substantially by the state bank in its operations or acquired for its future use.

b. Engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation eligible to discount loans with a farm credit bank.

c. Engaged solely in holding obligations of the United States, the farm credit banks, the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest.

d. Where the affiliate relationship has arisen as a result of shares acquired in satisfaction of a bona fide debt contracted prior to the date of the creation of such relationship provided that such shares shall be sold at public or private sale within one year from the date of the creation of the relationship, unless the time is extended by the superintendent.

e. Where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a state bank as executor, administrator, trustee, receiver, agent, depository, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the shareholders of such state bank.

f. Which is a bank.

g. Which is an operations subsidiary or other subsidiary in which the state bank owns or controls eighty percent or more of the voting shares. However, an operations subsidiary shall not conduct any activity at any location where the state bank itself would not be permitted to conduct that activity without the prior approval of the superintendent.

2. *a.* The superintendent may, in the superintendent's discretion, by regulation or order, exempt transactions or relationships from the requirements of **section 524.1102** if the superintendent finds such exemptions to be in the public interest and consistent with the purposes of **section 524.1102**.

b. A state bank may request an exemption from the requirements of **section 524.1102** by submitting a written request to the superintendent including all of the following:

(1) A detailed description of the transaction or relationship for which the state bank seeks an exemption.

(2) A statement of the reasons for exemption of the transaction or relationship.

(3) An explanation of how the exemption would be in the public interest and consistent with the purposes of **section 524.1102**.

[C71, 73, 75, 77, 79, 81, §524.1103]

89 Acts, ch 257, §21, 22; 95 Acts, ch 148, §94; 2012 Acts, ch 1017, §21

524.1104 Applicability of general loan limitations.

Any loan or extension of credit to an affiliate, and any investment in the shares, bonds, capital securities or other obligations of an affiliate, excepted by the provisions of **section 524.1102** from the requirements of that section, shall continue to be subject to the other provisions of **this chapter** applicable to loans or extensions of credit by a state bank and investments by a state bank in shares, bonds, capital securities, or other such obligations.

[C71, 73, 75, 77, 79, 81, §524.1104]

Referred to in **§524.1602**

524.1105 Examination of affiliates and reports.

1. For the purpose of determining the condition of a state bank and information concerning the state bank, the superintendent shall have the power to make or cause to be made an examination of any affiliate to the same extent as the superintendent may examine a state bank under **this chapter**.

2. If the superintendent has reasonable cause to believe that any corporation, trust, estate, association, or other similar organization is an affiliate, the superintendent may require the organization to furnish such information as may enable the superintendent to determine whether the organization is an affiliate.

[C71, 73, 75, 77, 79, 81, §524.1105]

Referred to in **§524.217**, **§524.219**

524.1106 Fees paid to an affiliate — approval by superintendent.

Any contract or arrangement for management or financial services which involves payment for these services by a state bank to a person who owns shares in that bank, or to any other affiliate, must be approved by the superintendent prior to such contract or arrangement becoming binding upon the state bank, and may also be reviewed at any time after original approval. Any contract or arrangement for consultation or other services which involve payment of those services by a state bank to any person who individually or whose spouse or immediate family or any combination thereof owns fifteen percent or more of the outstanding shares of that bank or is an officer or director thereof, or to an

affiliate may be reviewed by the superintendent. The superintendent shall have authority to determine whether or not such fees are reasonable in relation to the services performed, and if the superintendent determines they are unreasonable, to require that they be reduced to a reasonable amount or eliminated and the excess refunded, or that such contract or arrangement not be entered into by the state bank.

[C71, 73, 75, 77, 79, 81, §524.1106]

DIVISION XII

OFFICES

524.1201 General provisions.

1. A state bank may establish and operate any number of bank offices at any location in this state subject to the approval and regulation of the superintendent. A bank office may furnish all banking services ordinarily furnished to customers and depositors at the principal place of business of the state bank which operates the office, and a bank office manager or an officer of the bank shall be physically present at each bank office during a majority of its business hours. The central executive and official business and principal recordkeeping functions of a state bank shall be exercised only at its principal place of business or at another bank office as authorized by the superintendent for these functions.

2. Notwithstanding **subsection 1**, data processing services referred to in **section 524.804** may be performed for the state bank at some other location. All transactions of a bank office shall be immediately transmitted to the principal place of business or other bank office authorized under **subsection 1** of the state bank which operates the office, and no current recordkeeping functions shall be maintained at a bank office other than the bank office authorized under **subsection 1**, except to the extent the state bank which operates the office deems it desirable to keep there duplicates of the records kept at the principal place of business or authorized bank office of the state bank.

3. Notwithstanding any of the other provisions of **this section**, original loan documentation and trust recordkeeping functions may be located at any authorized bank office or at any other location approved by the superintendent.

[C27, 31, 35, §9258-b1; C39, §**9258.1;** C46, 50, 54, 58, 62, 66, §528.51; C71, 73, 75, 77, 79, 81, §524.1201; 81 Acts, ch 173, §6]

89 Acts, ch 257, §23; 91 Acts, ch 72, §1; 95 Acts, ch 32, §1; 96 Acts, ch 1056, §13, 14; 2001 Acts, ch 4, §1, 11; 2004 Acts, ch 1141, §26; 2005 Acts, ch 19, §109; 2006 Acts, ch 1015, §8; 2011 Acts, ch 102, §5

Referred to in **§524.1203**, **§524.1204**, **§524.1205**, **§524.1419**, **§524.1603**

524.1202 Repealed by 2001 Acts, ch 4, §10, 11.

524.1203 Cancellation of approval of offices.

Whenever an examination by the superintendent or other supervisory agencies discloses that the operation of a bank office is being conducted in violation of **section 524.1201**, the superintendent may forthwith revoke the approval of the bank office.

[C71, 73, 75, 77, 79, 81, §524.1203]

Referred to in **§524.1205**, **§524.1419**

524.1204 Privileges extended to national banks.

The privileges extended to state banks by **sections 524.1201** and **524.1212** and **chapter 527** shall be available on the same conditions to national banks to the extent they are so authorized by federal law.

[C71, §524.1201(3); C73, 75, 77, 79, 81, §524.1204]

2001 Acts, ch 4, §3, 11

524.1205 Establishment of branch or office in other state — superintendent's authority to regulate.

1. Notwithstanding **section 524.1201, subsection 1**, upon application to and approval by the superintendent, a state bank may acquire in any manner, establish, maintain, operate, retain, or relocate a branch or office in a state other than this state. Subject to the approval of the superintendent, such branch or office may engage in any activity authorized for a branch or office of a bank organized under the laws of that other state.

2. The superintendent shall supervise and regulate all out-of-state branches and offices of a state bank.

3. **Sections 524.1201** and **524.1203** apply to an out-of-state branch or office of a state bank except as otherwise provided by the laws of the state in which a branch or office is located or by the superintendent pursuant to **this section**.

4. **This section** does not authorize or permit a state-chartered bank located outside of this state or a national bank located outside of this state to establish a de novo branch or office in this state.

96 Acts, ch 1056, §15; 2001 Acts, ch 4, §4, 5, 11, 12

524.1206 Identification of legally chartered name of bank — required use of name.

A state or national bank, at its locations in this state, shall identify its principal place of business, any bank office, or any bank branch in a manner which includes its legally chartered name or a reasonable variation of such name. The legally chartered name of the state or national bank shall be used in all legal documents of such bank.

98 Acts, ch 1036, §3
Referred to in **§524.310**

524.1207 through 524.1211 Reserved.

524.1212 Location of satellite terminals.

Any state bank may utilize a satellite terminal, as defined in **section 527.2**, when that satellite terminal is lawfully being operated, at any location within this state. Any transaction engaged in through the use of a satellite terminal shall be deemed to take place at the principal place of business of a bank whose accounts and records are affected by the transaction.

[C77, 79, 81, §524.1212; 81 Acts, ch 173, §8]
2001 Acts, ch 4, §6, 11
Referred to in **§524.1204**

524.1213 Repealed by 2001 Acts, ch 4, §10, 11.

DIVISION XIII

DISSOLUTION

524.1301 Dissolution by incorporators, organizers, or initial directors.

A majority of the incorporators, organizers, or initial directors of a state bank that has not issued shares or has not commenced business may dissolve the state bank by delivering articles of dissolution to the superintendent, together with the applicable filing and recording fees, for filing with the secretary of state that set forth all of the following:

1. The name of the state bank.
2. The date of its incorporation or organization.
3. Either of the following:
a. That the state bank has not issued any shares.
b. That the state bank has not commenced business.
4. That no debt of the state bank remains unpaid.
5. If shares were issued, that the net assets of the state bank remaining after the payment of all necessary expenses have been distributed to the shareholders.

6. That a majority of the incorporators, organizers, or initial directors authorized the dissolution.

[C97, §1857; S13, §1857; C24, 27, 31, 35, 39, §**9277;** C46, 50, 54, 58, 62, 66, §528.76; C71, 73, 75, 77, 79, 81, §524.1301]

90 Acts, ch 1205, §40; 95 Acts, ch 148, §96; 2004 Acts, ch 1141, §67

524.1302 Involuntary dissolution prior to commencement of business.

Prior to the issuance of an authorization to do business, the superintendent may cause the dissolution of a state bank if there exists any reason why it should not have been incorporated or organized under **this chapter** or if an authorization to do business has not been issued within one year after the date of its incorporation or organization, or such longer time as the superintendent may allow for satisfaction of conditions precedent to its issuance. After giving the state bank adequate notice and an opportunity for hearing, the superintendent shall certify the applicable facts by the filing of a statement with the secretary of state, who shall thereafter issue a certificate of dissolution. Upon the issuance of such certificate of dissolution by the secretary of state, the corporate or organizational existence of the state bank shall cease.

[C31, 35, §9142-c1; C39, §**9142.1;** C46, 50, 54, 58, 62, 66, §524.14; C71, 73, 75, 77, 79, 81, §524.1302]

2004 Acts, ch 1141, §68

524.1303 Voluntary dissolution after commencement of business.

1. A state bank which has commenced business may propose to voluntarily dissolve upon the affirmative vote of the holders of at least a majority of the shares entitled to vote on the voluntary dissolution, adopting a plan of dissolution involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, national bank, or other financial institution insured by the federal deposit insurance corporation and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan of dissolution providing for full payment of its liabilities.

2. Upon acceptance for processing of an application for approval of a plan of dissolution on forms prescribed by the superintendent, the superintendent shall conduct such investigation as the superintendent may deem necessary to determine whether the plan adequately protects the interests of depositors, other creditors and shareholders and, if the plan involves an acquisition of assets and assumption of liabilities by another state bank, whether such acquisition and assumption would be consistent with adequate and sound banking and in the public interest, on the basis of factors substantially similar to those set forth in **section 524.1403, subsection 1**, paragraph *"d"*.

3. Within thirty days after the application for dissolution involving a provision of acquisition of the state bank's assets and assumption of its liabilities by another state bank is accepted for processing, the dissolving bank shall publish notice of the proposed transaction in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the dissolving bank has its principal place of business, and in the municipal corporation or unincorporated area in which the acquiring state bank has its principal place of business, or if there is none, a newspaper of general circulation published in the county or counties, or in a county adjoining the county or counties, in which the dissolving bank and the acquiring bank have their principal place of business. The notice shall be on forms provided by the superintendent, and proof of publication of the notice shall be delivered to the superintendent within fourteen days.

4. Within thirty days after the date of the publication of the notice, any interested person may submit to the superintendent written comments and data on the application. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

5. Within thirty days after the date of the publication of the notice, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent.

If the reasons are related to factual disputes, the disputes shall be described. Comments challenging the legality of an application shall be submitted separately in writing and shall not be considered at a hearing conducted pursuant to **this section**. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

6. If a request for a hearing has been made and denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. Interested persons may submit to the superintendent, with simultaneous copies to the applicant, additional written comments or information on the application within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period. The superintendent may waive this seven-day period upon request by the applicant. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested persons.

[C97, §1857; S13, §1857; C24, 27, 31, 35, 39, §**9277;** C46, 50, 54, 58, 62, 66, §528.76; C71, 73, 75, 77, 79, 81, §524.1303]

92 Acts, ch 1161, §5; 95 Acts, ch 148, §97; 2004 Acts, ch 1141, §27; 2005 Acts, ch 19, §110

Referred to in **§524.1309**

524.1304 Voluntary dissolution — approval.

1. Within ninety days after acceptance of the application for processing, the superintendent shall approve or disapprove the application for voluntary dissolution on the basis of the superintendent's investigation. As a condition of receiving the decision of the superintendent with respect to the application, the applying state bank shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the application. The superintendent shall give to the applying state bank written notice of the superintendent's decision. The decision of the superintendent shall be subject to judicial review pursuant to **chapter 17A**.

2. Upon approval of the plan of voluntary dissolution by the superintendent, the superintendent shall file with the secretary of state articles of dissolution prepared by the applicant in conformance with **section 524.1304A**. Upon filing of the articles of dissolution with the secretary of state, the state bank shall cease to accept deposits or carry on its business, except insofar as may be necessary for the proper winding up of the business of the state bank in accordance with the approved plan of dissolution.

3. If applicable state or federal laws require approval by an appropriate state or federal agency, the superintendent may withhold delivery of the approved articles of dissolution until the superintendent receives notice of the decision of such agency. If the final approval of the agency is not given within six months of the superintendent's approval, then the superintendent shall notify the applying state bank that the approval of the superintendent has been rescinded for that reason.

[C97, §1857; S13, §1857; C24, 27, 31, 35, 39, §**9277;** C46, 50, 54, 58, 62, 66, §528.76; C71, 73, 75, 77, 79, 81, §524.1304]

95 Acts, ch 148, §98

Referred to in **§524.1309**

524.1304A Articles of dissolution.

1. At any time after the dissolution of a state bank is authorized, the state bank may dissolve by delivering to the superintendent for filing with the secretary of state articles of dissolution setting forth all of the following:

a. The name of the state bank.

b. The date dissolution was authorized.

c. The number of votes entitled to be cast by the shareholders on the proposal to dissolve.

d. The total number of shareholder votes cast for and against dissolution, or the total

number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

e. If voting by voting groups was required, the information required by paragraphs "*c*" and "*d*" must be separately provided for each voting group entitled to vote separately on the plan to dissolve.

f. That all debts, obligations, and liabilities of the state bank will be paid or otherwise discharged or that adequate provision will be made for such discharge.

g. That all the remaining property and assets of the state bank will be distributed among its shareholders in accordance with their respective rights and interests.

h. That there are no legal actions pending against the state bank in any court or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending legal action.

2. A state bank is dissolved upon the effective date of its articles of dissolution.

95 Acts, ch 148, §99

Referred to in **§524.1304**, **§524.1309**

524.1305 Voluntary dissolution proceedings — winding up.

1. The board of directors shall have full power to wind up and settle the affairs of a state bank in voluntary dissolution proceedings, including the power to do all of the following:

a. Collecting the assets of the state bank.

b. Disposing of its properties that will not be distributed in kind to its shareholders.

c. Discharging or making provision for discharging its liabilities.

d. Distributing its remaining property among its shareholders according to their interests.

e. Doing every other act necessary to wind up and liquidate its business and affairs.

2. Dissolution of a state bank does not result in any of the following:

a. Transferring title to the state bank's property.

b. Preventing transfer of its shares or securities, although the authorization to dissolve may provide for closing the state bank's share transfer records.

c. Subjecting its directors or officers to standards of conduct different from those prescribed by **this chapter** prior to dissolution.

d. Changing quorum or voting requirements for its board of directors or shareholders; changing provisions for selection, resignation, or removal of its directors or officers or both; or changing provisions for amending its bylaws.

e. Preventing commencement of a proceeding by or against the state bank in its name.

f. Abating or suspending a proceeding pending by or against the state bank on the effective date of dissolution.

3. Within thirty days after filing of the articles of dissolution with the secretary of state, the state bank shall give notice of its dissolution:

a. By mail to each depositor and creditor, except those as to whom the liability of the state bank has been assumed by another financial institution insured by the federal deposit insurance corporation pursuant to the plan, at their last address of record as shown upon the books of the bank, including a statement of the amount shown by the books of the state bank to be due to such depositor or creditor and a demand that any claim for a greater amount be filed with the state bank any time before a specified date at least ninety days after the date of the notice.

b. By mail to each lessee of a safe-deposit box and each customer for whom property is held in safekeeping, except those as to whom the liability of the state bank has been assumed by another financial institution insured by the federal deposit insurance corporation pursuant to the plan, at their last address of record as shown upon the books of the state bank, including a demand that all property held in a safe-deposit box or held in safekeeping by the state bank be withdrawn by the person entitled to the property before a specified date which is at least ninety days after the date of the notice.

c. By mail to each person, at the person's last known address as shown upon the books of the state bank, interested in funds held in a fiduciary account or other representative capacity.

d. By a conspicuous posting at each office of the state bank.

e. By such publication as the superintendent may prescribe.

4. As soon after the approval of the plan of dissolution and the filing of the articles of dissolution as feasible, the state bank shall resign all fiduciary appointments and take such action as may be necessary to settle its fiduciary accounts.

5. All known depositors and creditors shall be paid promptly after the date specified in the notice given under paragraph *"a"* of **subsection 3** of **this section**. Unearned portions of rentals for safe-deposit boxes shall be rebated to the lessees thereof.

6. Safe-deposit boxes, the contents of which have not been removed by the owners after the date specified in the notice given under paragraph *"b"* of **subsection 3** of **this section**, shall be opened under the supervision of the superintendent and the contents placed in sealed packages which, together with unclaimed property held by the state bank in safekeeping, shall be transmitted to the treasurer of state. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state, together with a statement giving the name of the person, if known, entitled to the amount, the person's last known address, the amount due the person, and other information about the person as the treasurer of state may reasonably require. All property transmitted to the treasurer of state pursuant to **this subsection** shall be treated as abandoned, retained by the treasurer of state, and subject to claim, in the manner provided for in **sections 556.14 to 556.21**. All amounts due creditors described in **section 490.1440** shall be deposited with the treasurer of state in accordance with that section. Such amounts shall be retained by the treasurer of state and are subject to claim in the manner provided for in **section 490.1440**.

7. Upon approval by the superintendent, assets remaining after the performance of all obligations of the state bank under **subsections 4, 5, and 6** of **this section** shall be distributed to its shareholders according to their respective rights and preferences. Partial distributions to shareholders may be made prior to such time only if, and to the extent, approved by the superintendent. All amounts due shareholders described in **section 490.1440** shall be deposited with the treasurer of state in accordance with that section. Such amounts shall be retained by the treasurer of state and are subject to claim in the manner provided for in said **section 490.1440**.

8. During the course of dissolution proceedings the state bank shall make such reports as the superintendent may require, and shall continue to be subject to the provisions of **this chapter**, including those relating to examination of state banks, until completion of the dissolution of the state bank.

9. If at any time during the course of dissolution proceedings the superintendent finds that the assets of the state bank will not be sufficient to discharge its obligations, the superintendent shall tender to the federal deposit insurance corporation the receivership in the manner required by **section 524.1310**, and the dissolution shall thereafter be treated as an involuntary dissolution in accordance with the terms of that section and **sections 524.1311** and **524.1312**.

[C71, 73, 75, 77, 79, 81, §524.1305]

90 Acts, ch 1205, §41; 95 Acts, ch 148, §100; 2012 Acts, ch 1017, §22, 28

Referred to in **§524.1309**, **§524.1310**

524.1306 Revocation of voluntary dissolution proceedings.

1. A state bank may, at any time prior to the filing of the articles of dissolution with the secretary of state, revoke voluntary dissolution proceedings as provided for in **section 490.1404**.

2. The statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the state bank, shall be delivered to the superintendent, together with the applicable filing and recording fee, who shall, if the superintendent finds that they satisfy the requirements of **this section**, deliver them to the secretary of state for filing and

recording in the secretary of state's office, and the same shall be filed and recorded in the office of the county recorder.

[C71, 73, 75, 77, 79, 81, §524.1306]

90 Acts, ch 1205, §42; 95 Acts, ch 148, §101

Referred to in §524.1309

524.1307 and 524.1308 Repealed by 95 Acts, ch 148, §135.

524.1308A Known claims against dissolved state bank.

1. A dissolved state bank may dispose of the known claims against it pursuant to **this section**.

2. The dissolved state bank shall notify its known claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice must include all of the following:

a. A description of information that must be included in a claim.

b. The mailing address where a claim may be sent.

c. The deadline for submitting a claim, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved state bank must receive the claim.

d. A statement that the claim will be barred if not received by the deadline.

3. A claim against the dissolved state bank is barred if either of the following occur:

a. A claimant who was given written notice under **subsection 2** does not deliver the claim to the dissolved state bank by the deadline.

b. A claimant whose claim was rejected by the dissolved state bank does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

4. For purposes of **this section**, "*claim*" does not include a contingent liability or a claim based upon an event occurring after the effective date of dissolution.

95 Acts, ch 148, §102

Referred to in §524.1308B

524.1308B Unknown claims against dissolved state bank.

1. A dissolved state bank may publish notice of its dissolution and request that persons with claims against the state bank present them in accordance with the notice.

2. A notice made pursuant to **this section** must satisfy all of the following requirements:

a. Be published at least once in a newspaper of general circulation in the county where the dissolved state bank's principal office is located.

b. Include a description of the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. Include a statement that a claim against the state bank will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

3. If the dissolved state bank publishes a newspaper notice pursuant to **subsection 2**, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved state bank within two years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under **section 524.1308A**.

b. A claimant whose claim was timely sent to the dissolved state bank but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under **this section** as follows:

a. Against the dissolved state bank, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a shareholder of the dissolved state bank to the extent of the shareholder's pro rata share of the claim or the state bank's assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's

total liability for all claims under **this section** shall not exceed the total amount of assets distributed to the shareholder in liquidation.

95 Acts, ch 148, §103

524.1309 Becoming subject to chapter 489 or 490.

In lieu of the dissolution procedure prescribed in **sections 524.1303 to 524.1306**, a state bank may cease to carry on the business of banking and, after compliance with **this section**, continue as a corporation subject to **chapter 490**; or if the state bank is organized as a limited liability company under **this chapter**, continue as a limited liability company subject to **chapter 489**.

1. A state bank that has commenced business may propose to voluntarily cease to carry on the business of banking and become a corporation subject to **chapter 490**, or a limited liability company subject to **chapter 489**, upon the affirmative vote of the holders of at least a majority of the shares entitled to vote on such proposal, adopting a plan involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, national bank, or other financial institution insured by the federal deposit insurance corporation, and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan providing for the cessation of banking business and the payment of its liabilities.

2. The application to the superintendent for approval of a plan described in **subsection 1** shall be treated by the superintendent in the same manner as an application for approval of a plan of dissolution under **section 524.1303, subsection 2**, and shall be subject to **section 524.1303, subsection 3**.

3. Immediately upon adoption and approval of a plan to voluntarily cease to carry on the business of banking and become a corporation subject to **chapter 490**, or a limited liability company subject to **chapter 489**, the state bank shall deliver to the superintendent a plan to cease the business of banking and become a corporation subject to **chapter 490**, or a limited liability company subject to **chapter 489**, which shall be signed by two of its duly authorized officers and shall contain the name of the state bank, the post office address of its principal place of business, the name and address of its officers and directors, the number of shares entitled to vote on the plan and the number of shares voted for or against the plan, respectively, the nature of the business to be conducted by the corporation under **chapter 490**, or by the limited liability company subject to **chapter 489**, and the general nature of the assets to be held by the corporation or company.

4. Upon approval of the plan by the superintendent, the state bank shall immediately surrender to the superintendent its authorization to do business as a bank and shall cease to accept deposits and carry on the banking business except insofar as may be necessary for it to complete the settlement of its affairs as a state bank in accordance with **subsection 5**.

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after approval by the superintendent of the plan to cease the business of banking and become a corporation subject to **chapter 490**, or a limited liability company subject to **chapter 489**, the state bank shall give notice of its intent to persons identified in **section 524.1305, subsection 3**, in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank, the state bank shall also follow the procedure prescribed in **section 524.1305**, **subsections 4, 5, and 6**.

6. Upon completion of all the requirements of **this section**, the state bank shall deliver to the superintendent articles of intent to be subject to **chapter 490** or **489**, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with **this section**, that it has ceased to carry on the business of banking, and the information required by **section 490.202** relative to the contents of articles of incorporation under **chapter 490**, or articles of organization under **chapter 489**. If the superintendent finds that the state bank has complied with **this section** and that the articles of intent to be subject to **chapter 490** or **489** satisfy the requirements of **this section**, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and the superintendent shall file and record them in the office of the county recorder.

7. Upon the filing of the articles of intent to be subject to **chapter 490** or **489**, the state

bank shall cease to be a state bank subject to **this chapter**, and shall cease to have the powers of a state bank subject to **this chapter** and shall become a corporation subject to **chapter 490** or a limited liability company subject to **chapter 489**. The secretary of state shall issue a certificate as to the filing of the articles of intent to be subject to **chapter 490** or **489** and send the certificate to the corporation or limited liability company or its representative. The articles of intent to be subject to **chapter 490** or **489** shall be the articles of incorporation of the corporation or a limited liability company. The provisions of **chapter 490** or **489** becoming applicable to a corporation or limited liability company formerly doing business as a state bank shall not affect any right accrued or established, or liability or penalty incurred under **this chapter** prior to the filing with the secretary of state of the articles of intent to be subject to **chapter 490** or **489**.

8. A shareholder of a state bank who objects to adoption by the state bank of a plan to cease to carry on the business of banking and to continue as a corporation subject to **chapter 490**, or a limited liability company subject to **chapter 489**, is entitled to appraisal rights provided for in **chapter 490, division XIII**, or in **chapter 489**, **section 489.604**.

9. A state bank, at any time prior to the approval of the articles of intent to become subject to **chapter 490** or **489**, may revoke the proceedings in the manner prescribed by **section 524.1306**.

[C71, 73, 75, 77, 79, 81, §524.1309]

90 Acts, ch 1205, §43; 95 Acts, ch 148, §104 – 106; 2002 Acts, ch 1154, §114, 125; 2004 Acts, ch 1141, §69; 2005 Acts, ch 19, §111; 2008 Acts, ch 1162, §149, 150, 154, 155

524.1310 Involuntary dissolution after commencement of business — federal deposit insurance corporation as receiver.

1. *a.* In a situation in which the superintendent has required, in accordance with **section 524.226**, that the state bank cease to carry on its business, the superintendent shall tender to the federal deposit insurance corporation the receivership for the state bank. The affairs of the state bank shall thereafter be governed by **this section**, **section 524.1311**, and the provisions of federal law, and shall be subject to federal court jurisdiction, and the assets of the state bank shall be distributed in accordance with **section 524.1312**. If there is a conflict between the provisions of state and federal law, federal law shall govern.

b. All amounts due creditors and shareholders described in **section 490.1440** shall be deposited with the treasurer of state in accordance with that section. Such amounts shall be retained by the treasurer of state and subject to claim in the manner provided for in **section 490.1440**. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state in the manner required by **section 524.1305, subsection 6**. Such property shall be treated as abandoned, retained by the treasurer of state, and is subject to claim, in the manner provided for in **sections 556.14 to 556.21**.

2. Under the receivership, the rights of depositors and other creditors of the insured state bank shall be determined in accordance with the laws of this state.

3. The federal deposit insurance corporation as receiver shall possess all the powers, rights, and privileges provided under **section 524.1311**, except insofar as that section may be in conflict with the laws of the United States.

4. If the federal deposit insurance corporation pays or makes available for payment the insured deposit liabilities of an insured state bank, the federal deposit insurance corporation shall be subrogated by operation of law to all rights against such insured state bank of the owners of such deposits in the same manner and to the same extent as subrogation of the federal deposit insurance corporation is provided for in applicable federal law in the case of a national bank.

[C73, §1572; C97, §1877; C24, 27, 31, §9239, 9240, 9242; C35, §9154-f3, 9239, 9240, 9242; C39, §**9154.03, 9239, 9240, 9242, 9283.35, 9283.36;** C46, 50, 54, 58, 62, 66, §524.30, 528.33, 528.41, 528.43, 528.120, 528.121; C71, 73, 75, 77, 79, 81, §524.1310]

90 Acts, ch 1205, §44; 2012 Acts, ch 1017, §23, 28

Referred to in **§524.1305**

524.1311 Involuntary dissolution after commencement of business — receivership procedure.

1. Under the receivership, a diligent effort shall be made to collect and realize on the assets of the state bank and to make distribution of the proceeds from time to time to those entitled thereto. The federal deposit insurance corporation may execute assignments, releases, and satisfactions to effectuate sales and transfers as receiver or after the receivership has terminated. The federal deposit insurance corporation may sell or compound all bad or doubtful debts, and may sell all the real and personal property of such state bank.

2. After the involuntary dissolution of a state bank, the superintendent shall file notice of the dissolution with the secretary of state and the county recorder of the county in which the state bank is located. No fee shall be charged by the secretary of state or the county recorder for the filing or recording. The corporate existence of the state bank shall cease upon filing of the notice of dissolution with the secretary of state.

[C73, §1572; C97, §1857, 1877; S13, §1857; C24, §9239, 9278; C27, §9239, 9239-a5, 9278; C31, 35, §9239, 9239-a5, 9278, 9278-c1; C39, §**9239, 9239.6, 9278, 9278.1 – 9278.3;** C46, 50, 54, 58, 62, 66, §528.33, 528.39, 528.77 – 528.80; C71, 73, 75, 77, 79, 81, §524.1311]

2012 Acts, ch 1017, §24, 28

Referred to in **§524.1305**, **§524.1310**

524.1312 Distribution of assets upon insolvency.

In the distribution of the assets of a state bank which is dissolved under **this chapter**, or by any other method, the order of payment of the liabilities of the state bank, in the event that its assets are insufficient to pay in full all its liabilities for which claims are made, shall be:

1. The payment of costs and expenses of the administration of the dissolution.

2. The payment of claims for public funds deposited pursuant to **chapter 12C** and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

3. Amounts due to depositors.

4. The payment of all other claims pro rata, exclusive of claims on capital notes and debentures.

5. The payment of capital notes and debentures.

[C73, §1572; C97, §1857, 1877; S13, §1857; C24, §9239, 9243, 9278; C27, §9239, 9239-a6, 9243, 9278; C31, 35, §9239, 9239-a6, 9243, 9278, 9278-c1; C39, §**9239, 9239.7, 9243, 9278, 9278.1, 9278.2, 9278.3;** C46, 50, 54, 58, 62, 66, §528.33, 528.40, 528.44, 528.77, 528.78, 528.79, 528.80; C71, 73, 75, 77, 79, 81, §524.1312]

85 Acts, ch 194, §9

Referred to in **§12C.23A**, **§524.404**, **§524.1305**, **§524.1310**

Claims entitled to priority; **§680.7 – 680.9**

524.1313 Involuntary dissolution after commencement of business — tender of receivership to F.D.I.C. Repealed by 2012 Acts, ch 1017, §27, 28. See §524.1311.

524.1314 Survival of rights and remedies after dissolution or expiration — preservation of records.

1. The dissolution of a state bank, or the expiration of its period of duration, shall not take away or impair any remedy available to or against such state bank, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred prior to such dissolution or expiration, if action or other proceeding thereon is commenced within two years after the date of such dissolution or expiration. Any such action or proceeding by or against the state bank may be prosecuted or defended by the state bank in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim.

2. Subsequent to the dissolution of a state bank, other than through the adoption of a plan involving a provision for acquisition of its assets and assumption of its liabilities by another state bank, national bank, or other financial institution insured by the federal deposit insurance corporation, the superintendent may assume custody of the records of the state

bank and, if so, shall retain them in accordance with the provisions of **section 524.221**. The superintendent may make copies of such records in accordance with the provisions of **section 524.221, subsection 1**.

[C71, 73, 75, 77, 79, 81, §524.1314]

95 Acts, ch 148, §107

DIVISION XIV

MERGER, CONSOLIDATION, AND CONVERSION

524.1401 Authority to merge.

1. Upon compliance with the requirements of **this chapter**, one or more state banks, one or more national banks, one or more federal associations, one or more corporations, or any combination of these entities, with the approval of the superintendent, may merge into a state bank.

2. Upon compliance with the requirements of **this chapter**, one or more state banks may merge into a national bank. The authority of a state bank to merge into a national bank is subject to the condition that at the time of the transaction the laws of the United States shall authorize a national bank located in this state, without approval by the comptroller of the currency of the United States, to merge into a state bank under limitations no more restrictive than those contained in **this chapter** with respect to the merger of a state bank into a national bank.

3. Upon compliance with the requirements of **this chapter**, one or more state banks may merge with one or more federal associations. The authority of a state bank to merge into a federal association is subject to the conditions the laws of the United States authorize at the time of the transaction.

4. As used in **this section**, the term *"merger"* or *"merge"* means any plan by which the assets and liabilities of an entity are combined with those of one or more other entities, including transactions in which one of the corporate entities survives and transactions in which a new corporate entity is created.

[C54, 58, 62, 66, §528B.1 – 528B.3; C71, 73, 75, 77, 79, 81, §524.1401]

95 Acts, ch 148, §108; 2012 Acts, ch 1017, §109

524.1402 Requirements for a merger.

The requirements for a merger which must be satisfied by the parties to the merger are as follows:

1. The parties shall adopt a plan stating all of the following:

a. The names of the parties proposing to merge and the name of the bank into which they propose to merge, which is the "resulting bank".

b. The terms and conditions of the proposed merger.

c. The manner and basis of converting the shares of each party into shares, obligations, or other securities of the resulting bank or of any other corporation, or, in whole or in part, into cash or other property.

d. The rights of the shareholders of each of the parties.

e. An agreement concerning the merger.

f. Such other provisions with respect to the proposed merger which are deemed necessary or desirable.

2. In the case of a state bank which is a party to the plan, if the proposed merger will result in a state bank subject to **this chapter**, adoption of the plan by such state bank requires the affirmative vote of at least a majority of the directors and approval by the shareholders, in the manner and according to the procedures prescribed in **section 490.1104**, at a meeting called in accordance with the terms of that section. In the case of a national bank, or if the proposed merger will result in a national bank, adoption of the plan by each party to the merger shall require the affirmative vote of at least such directors and shareholders whose affirmative vote on the plan is required under the laws of the United States. Subject to applicable requirements

of the laws of the United States in a case in which a national bank is a party to a plan, any modification of a plan which has been adopted shall be made by any method provided in the plan, or in the absence of such provision, by the same vote as required for adoption.

3. If a proposed merger will result in a state bank, application for the required approval by the superintendent shall be made in the manner prescribed by the superintendent. There shall also be delivered to the superintendent, when available, the following:

a. Articles of merger.

b. Applicable fees payable to the secretary of state, as specified in **section 490.122**, for the filing and recording of the articles of merger.

c. If there is any modification of the plan at any time prior to the approval by the superintendent under **section 524.1403**, an amendment of the application and, if necessary, of the articles of merger, signed in the same manner as the originals, setting forth the modification of the plan, the method by which the modification was adopted and any related change in the provisions of the articles of merger.

d. Proof of publication of the notice required by **subsection 4**.

4. If a proposed merger will result in a state bank, within thirty days after the application for merger is accepted for processing, the parties to the plan shall publish a notice of the proposed transaction in a newspaper of general circulation published in the municipal corporation or unincorporated area in which each party to the plan has its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which each party to the plan has its principal place of business. The notice shall be on forms prescribed by the superintendent and shall set forth the names of the parties to the plan and the resulting state bank, the location and post office address of the principal place of business of the resulting state bank and of each office to be maintained by the resulting state bank, and the purpose or purposes of the resulting state bank. Proof of publication of the notice shall be delivered to the superintendent within fourteen days.

5. Within thirty days after the date of the publication of the notice required under **subsection 4**, any interested person may submit to the superintendent written comments and data on the application. Comments challenging the legality of an application shall be submitted separately in writing. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

6. Within thirty days after the date of the publication of the notice required under **subsection 4**, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

7. If a request for a hearing is denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. Interested persons may submit to the superintendent, with simultaneous copies to the applicant, additional written comments or data on the application within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period. The superintendent may waive this seven-day period upon request by the applicant. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested persons.

8. The articles of merger shall be signed by two duly authorized officers of each party to the plan and shall contain all of the following:

a. The names of the parties to the plan, and of the resulting state bank.

b. The location and the post office address of the principal place of business of each party to the plan, and of each additional office maintained by the parties to the plan, 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.

c. The votes by which the plan was adopted, and the date and place of each meeting in connection with such adoption.

d. The number of directors constituting the board of directors, and the names and addresses of the individuals who are to serve as directors until the next annual meeting of the shareholders or until their successors be elected and qualify.

e. Any amendment of the articles of incorporation of the resulting state bank.

f. The plan of merger.

9. If a proposed merger will result in a national bank, a state bank which is a party to the plan shall do all of the following:

a. Notify the superintendent of the proposed merger.

b. Provide such evidence of the adoption of the plan as the superintendent may request.

c. Notify the superintendent of any abandonment or disapproval of the plan.

d. File with the superintendent and with the secretary of state evidence of approval of the merger by the comptroller of the currency of the United States.

e. Notify the superintendent of the date upon which the merger is to become effective.

[C54, 58, 62, 66, §528B.4, 528B.5; C71, 73, 75, 77, 79, 81, §524.1402]

90 Acts, ch 1076, §1; 90 Acts, ch 1205, §45, 46; 95 Acts, ch 148, §109; 2002 Acts, ch 1154, §115, 125; 2004 Acts, ch 1141, §28; 2005 Acts, ch 19, §112

Referred to in **§524.1403**

524.1403 Approval of merger by superintendent.

1. Upon receipt of an application for approval of a merger and of the supporting items required by **section 524.1402, subsection 3**, the superintendent shall conduct such investigation as the superintendent deems necessary to ascertain the following:

a. The articles of merger and supporting items satisfy the requirements of **this chapter**.

b. The plan and any modification of the plan adequately protects the interests of depositors, other creditors and shareholders.

c. The requirements for a merger under all applicable laws have been satisfied and the resulting state bank would satisfy the requirements of **this chapter** with respect to it.

d. The merger would be consistent with adequate and sound banking and in the public interest on the basis of the financial history and condition of the parties to the plan, including the adequacy of the capital structure of the resulting state bank, the character of the management of the resulting state bank, the potential effect of the merger on competition, and the convenience and needs of the area primarily to be served by the resulting state bank.

2. *a.* Within one hundred eighty days after acceptance of the application for processing, or within an additional period of not more than sixty days after receipt of an amendment of the application, the superintendent shall approve or disapprove the application on the basis of the investigation. The plan shall not be modified at any time after approval of the application by the superintendent.

b. If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of any party to the plan, the superintendent may proceed without requiring publication of the notice required under **section 524.1402, subsection 4**. As a condition of receiving the decision of the superintendent with respect to the pending application, the parties to the plan shall reimburse the superintendent for all the expenses incurred in connection with the application. The superintendent shall give to the parties to the plan written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review pursuant to **chapter 17A**.

[C54, 58, 62, 66, §528B.4; C71, 73, 75, 77, 79, 81, §524.1403]

92 Acts, ch 1161, §6; 95 Acts, ch 148, §110; 2012 Acts, ch 1023, §157

Referred to in **§524.1303**, **§524.1402**

524.1404 Procedure after approval by the superintendent — issuance of certificate of merger.

If applicable state or federal laws require the approval of the merger by a federal or state agency, the superintendent may withhold delivery of the approved articles of merger until the superintendent receives notice of the decision of such agency. If the final approval of the agency is not given within six months of the superintendent's approval, the superintendent shall notify the parties to the plan that the approval of the superintendent has been rescinded for that reason. If such agency gives its approval, the superintendent shall deliver the articles of merger, with the superintendent's approval indicated on the articles, to the secretary of state, and shall notify the parties to the plan. The receipt of the approved articles of merger by the secretary of state constitutes filing of the articles of merger with that office. The secretary of state shall record the articles of merger, and the articles shall be filed and recorded in the office of the county recorder in each county in which the parties to the plan had previously maintained a principal place of business. On the date upon which the merger is effective the secretary of state shall issue a certificate of merger and send the same to the resulting state bank and a copy of the certificate of merger to the superintendent.

[C54, 58, 62, 66, §528B.6; C71, 73, 75, 77, 79, 81, §524.1404]

95 Acts, ch 148, §111

524.1405 Effect of merger.

1. The merger is effective upon the filing of the articles of merger with the secretary of state, or at any later date and time as specified in the articles of merger. The certificate of merger is conclusive evidence of the performance of all conditions precedent to the merger, and of the existence or creation of the resulting state bank, except as against the state.

2. When a merger takes effect all of the following apply:

a. Every other financial institution to the merger merges into the surviving financial institution and the separate existence of every party except the surviving financial institution ceases.

b. The title to all real estate and other property owned by each party to the merger is vested in the surviving party without reversion or impairment.

c. The surviving party has all liabilities of each party to the merger.

d. A proceeding pending against any party to the merger may be continued as if the merger did not occur or the surviving party may be substituted in the proceeding for the party whose existence ceased.

e. The articles of incorporation of the surviving party are amended to the extent provided in the articles of merger.

f. The shares of each party to the merger that are to be converted into shares, obligations, or other securities of the surviving party or any other corporation or limited liability company or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under **section 524.1406**.

[C54, 58, 62, 66, §528B.6, 528B.8; C71, 73, 75, 77, 79, 81, §524.1405]

95 Acts, ch 148, §112, 113; 98 Acts, ch 1036, §4; 2004 Acts, ch 1141, §70

524.1406 Appraisal rights of shareholders.

1. A shareholder of a state bank, which is a party to a proposed merger plan which will result in a state bank subject to **this chapter**, who objects to the plan is entitled to appraisal rights as provided in **chapter 490, division XIII**.

2. If a shareholder of a national bank which is a party to a proposed merger plan which will result in a state bank, or a shareholder of a state bank which is a party to a plan which will result in a national bank, objects to the plan and complies with the requirements of the applicable laws of the United States, the resulting state bank or national bank, as the case

may be, is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States.

[C54, 58, 62, 66, §528B.9; C71, 73, 75, 77, 79, 81, §524.1406]

90 Acts, ch 1205, §47; 95 Acts, ch 148, §114; 99 Acts, ch 162, §1; 99 Acts, ch 208, §59; 2000 Acts, ch 1211, §3; 2002 Acts, ch 1154, §116, 125; 2008 Acts, ch 1119, §11; 2010 Acts, ch 1138, §57; 2011 Acts, ch 34, §121; 2014 Acts, ch 1001, §4; 2014 Acts, ch 1076, §20

Referred to in §524.1405

See Code editor's note on simple harmonization at the end of Vol VI

Subsection 3 stricken

524.1407 Repealed by 95 Acts, ch 148, §135.

524.1408 Merger of corporation or limited liability company substantially owned by a state bank.

A state bank owning at least ninety percent of the outstanding shares, of each class, of another corporation or limited liability company which it is authorized to own under **this chapter** may merge the other corporation or limited liability company into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation or limited liability company. The board of directors of the state bank shall approve a plan of merger, mail the plan of merger to shareholders of record of the subsidiary corporation or holders of membership interests in the subsidiary limited liability company, and prepare and execute articles of merger in the manner provided for in **section 490.1105**. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of **this section**, deliver them to the secretary of state for filing and recording in the secretary of state's office, and they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the certificate to the state bank and a copy of it to the superintendent.

[C71, 73, 75, 77, 79, 81, §524.1408]

90 Acts, ch 1205, §48; 95 Acts, ch 148, §115; 2002 Acts, ch 1154, §117, 125; 2004 Acts, ch 1141, §71; 2005 Acts, ch 3, §87

524.1409 Conversion of national bank or federal savings association into state bank.

A national bank or federal savings 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.

[C54, 58, 62, 66, §528B.3, 528B.7; C71, 73, 75, 77, 79, 81, §524.1409]

98 Acts, ch 1036, §5; 2007 Acts, ch 88, §8; 2012 Acts, ch 1017, §110

524.1410 Application for approval by superintendent.

A national bank or federal savings 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:

1. Articles of conversion.
2. As soon as available, proof of publication of the notice required by **section 524.1412**.
3. The applicable fee payable to the secretary of state, under **section 490.122**, for the filing and recording of the articles of conversion.

[C54, 58, 62, 66, §528B.7; C71, 73, 75, 77, 79, 81, §524.1410]

90 Acts, ch 1205, §49; 98 Acts, ch 1036, §6; 2007 Acts, ch 88, §9; 2012 Acts, ch 1017, §111

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 and shall contain all of the following:

1. The name of the national bank or federal savings 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 **section 524.302, subsection 2**, paragraph *"b"*.

[C54, 58, 62, 66, §528B.4; C71, 73, 75, 77, 79, 81, §524.1411]

95 Acts, ch 148, §116; 98 Acts, ch 1036, §7, 8; 2007 Acts, ch 88, §10; 2012 Acts, ch 1017, §112, 113; 2013 Acts, ch 30, §131

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 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 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 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 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.

[C54, 58, 62, 66, §528B.6; C71, 73, 75, 77, 79, 81, §524.1412]

95 Acts, ch 148, §117; 98 Acts, ch 1036, §9, 10; 2004 Acts, ch 1141, §29; 2007 Acts, ch 88, §11; 2012 Acts, ch 1017, §114, 115

Referred to in **§524.1410**

524.1413 Approval of conversion by superintendent.

1. Upon acceptance for processing of an application for approval of a conversion, the superintendent shall conduct such investigation as the superintendent deems necessary to ascertain the following:

a. The articles of conversion and supporting items satisfy the requirements of **this chapter**.

b. The plan adequately protects the interests of depositors.

c. The requirements for a conversion under all applicable laws have been satisfied and the resulting state bank would satisfy the requirements of **this chapter** applicable to it.

d. The resulting state bank will possess an adequate capital structure.

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 shall reimburse the superintendent for all expenses incurred in connection with the application. The superintendent shall give the national bank or federal savings 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 of the superintendent's decision.

[C54, 58, 62, 66, §528B.4; C71, 73, 75, 77, 79, 81, §524.1413]

95 Acts, ch 148, §118; 98 Acts, ch 1036, §11; 2007 Acts, ch 88, §12; 2013 Acts, ch 90, §161

524.1414 Receipt by secretary of state — county recorder.

The receipt of the approved articles of conversion by the secretary of state constitutes filing of the articles of conversion with that office. The secretary of state shall record the articles of conversion and the articles shall be filed and recorded in the office of the county recorder in the county in which the resulting state bank has its principal place of business.

[C54, 58, 62, 66, §528B.6; C71, 73, 75, 77, 79, 81, §524.1414]

95 Acts, ch 148, §119

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 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 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, 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. A liability of the national bank or federal savings association, or of the national bank's or federal savings 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 is not impaired by the conversion. A claim existing or action pending by or against the national bank or federal savings 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 is vested in the resulting state bank without reversion or impairment.

[C54, 58, 62, 66, §528B.6, 528B.8; C71, 73, 75, 77, 79, 81, §524.1415]

95 Acts, ch 148, §120, 121; 96 Acts, ch 1034, §51; 98 Acts, ch 1036, §12; 2007 Acts, ch 88, §13; 2012 Acts, ch 1017, §116

524.1416 Authority for conversion of state bank into national bank or federal savings association.

1. A state bank may convert into a national bank or federal savings association by 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 conversion 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**.

[C54, 58, 62, 66, §528B.2; C71, 73, 75, 77, 79, 81, §524.1416]

98 Acts, ch 1036, §13; 2004 Acts, ch 1141, §30; 2006 Acts, ch 1010, §149; 2007 Acts, ch 88, §14; 2012 Acts, ch 1017, §117

524.1417 Appraisal rights of shareholder of converting state or national bank or federal savings association.

1. A shareholder of a state bank that converts into a national bank or federal savings 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.

[C54, 58, 62, 66, §528B.9; C71, 73, 75, 77, 79, 81, §524.1417]

95 Acts, ch 148, §122, 123; 98 Acts, ch 1036, §14; 2002 Acts, ch 1154, §118, 125; 2007 Acts, ch 88, §15; 2012 Acts, ch 1017, §118

Referred to in **§524.1416**

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

[C54, 58, 62, 66, §528B.10; C71, 73, 75, 77, 79, 81, §524.1418]

95 Acts, ch 148, §124; 98 Acts, ch 1036, §15; 2007 Acts, ch 88, §16; 2012 Acts, ch 1017, §119

524.1419 Offices of a resulting state bank.

If a merger or conversion results in a state bank subject to the provisions of **this chapter**, the resulting state bank, after the effective date of the merger or conversion, shall be subject to the provisions of **sections 524.1201** and **524.1203** relating to the bank offices.

[C71, 73, 75, 77, 79, 81, §524.1419]

89 Acts, ch 257, §25; 95 Acts, ch 148, §125; 2001 Acts, ch 4, §8, 11

524.1420 Nonconforming assets of resulting state bank.

If a merger or conversion results in a state bank subject to the provisions of **this chapter**, and the resulting state bank has assets which do not conform with the provisions of **this chapter**, the superintendent may allow the resulting state bank a reasonable time to conform with state law.

[C54, 58, 62, 66, §528B.11; C71, 73, 75, 77, 79, 81, §524.1420]

95 Acts, ch 148, §126

524.1421 Mutual to stock conversions.

1. A mutual corporation, a mutual holding company, a federal mutual association, or a federal mutual holding company, subject to the provisions of **this chapter**, may convert into a stock corporation that is either a state bank or a state bank mutual bank holding company upon approval of the superintendent.

2. A mutual corporation, a mutual holding company, a federal mutual association, or

a federal mutual holding company 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, the following:

a. Articles of conversion.

b. A business plan addressing factors prescribed by the superintendent.

c. Proof of publication of the notice required by **section 524.1422**.

d. The applicable fee payable to the secretary of state, under **section 490.122**, for the filing and recording of the articles of conversion.

3. The superintendent may adopt rules governing mutual to stock conversions.

2012 Acts, ch 1017, §14, 18

524.1422 Notice of mutual to stock conversion.

Within thirty days after an application for conversion has been accepted for processing, the mutual corporation, mutual holding company, federal mutual association, or federal mutual holding company 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 mutual corporation, mutual holding company, federal mutual association, or federal mutual holding company 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 mutual corporation, mutual holding company, federal mutual association, or federal mutual holding company has its principal place of business. The notice shall set forth the information required by the superintendent.

2012 Acts, ch 1017, §15, 18

Referred to in **§524.1421**

DIVISION XV

AMENDMENT TO ARTICLES OF INCORPORATION

524.1501 Authority to amend.

A state bank, with the approval of the superintendent and in the manner provided in **this chapter**, may amend its articles of incorporation in order to make any change in the articles of incorporation so long as the articles of incorporation as amended contain only provisions as might be lawfully contained in the original articles of incorporation at the time of making the amendment.

[C35, §9283-f14; C39, §**9283.42;** C46, 50, 54, 58, 62, 66, §528.127; C71, 73, 75, 77, 79, 81, §524.1501]

95 Acts, ch 148, §127

524.1502 Procedure to amend.

1. An amendment of the articles of incorporation shall be proposed by adoption of a resolution by the board of directors, directing that it be submitted to a vote at a meeting of shareholders called in the manner required by **section 524.533**.

2. The resolution proposing an amendment or amendments shall contain the language of each amendment by setting forth in full the articles of incorporation as they would be amended or any provision thereof as it would be amended or by setting forth in full any matter to be added to or deleted from the articles of incorporation. A copy of the resolution or a summary thereof shall be included with the notice of the meeting required for the vote of the shareholders.

3. Adoption of each amendment shall require the affirmative vote of the holders of a majority of the shares entitled to vote thereon and, if any class is entitled to vote thereon as a class, the affirmative vote of the holders of a majority of the shares of each class entitled to vote thereon as a class.

[C35, §9283-f11, -f12, -f13; C39, §**9283.39, 9283.40, 9283.41;** C46, 50, 54, 58, 62, 66, §528.124, 528.125, 528.126; C71, 73, 75, 77, 79, 81, §524.1502]

Referred to in **§524.312**

524.1503 Voting on amendments by voting groups.

1. The holders of the outstanding shares of a class are entitled to vote as a separate voting group on a proposed amendment if the amendment does any of the following:

a. Increases or decreases the aggregate number of authorized shares of the class.

b. Increases or decreases the par value of the shares of the class.

c. Effects an exchange or reclassification of all or part of the shares of the class into shares of another class or effects a cancellation of all or part of the shares of the class.

d. Effects an exchange or reclassification, or creates the right of exchange, of all or part of the shares of another class into shares of that class.

e. Changes the designation, rights, preferences, or limitations of all or part of the shares of the class.

f. Changes the shares of all or part of the class into a different number of shares of the same class.

g. Creates a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

h. Increases the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

i. Limits or denies an existing preemptive right of all or part of the shares of the class.

j. Cancels or otherwise affects rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in **subsection 1**, the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles two or more series of shares to vote as separate voting groups under **this section** would affect those two or more series in the same or a substantially similar way, the shares of all the series so affected must vote together as a single voting group on the proposed amendment.

4. A class or series of shares is entitled to the voting rights granted by **this section** although the articles of incorporation provide that the shares are nonvoting shares.

[C71, 73, 75, 77, 79, 81, §524.1503]

95 Acts, ch 148, §128

524.1504 Articles of amendment.

1. Upon the adoption of an amendment, articles of amendment shall be prepared on forms prescribed by the superintendent, signed by two duly authorized officers of the state bank and shall contain:

a. The name of the state bank.

b. The location of its principal place of business.

c. The amendment adopted, which shall be set forth in full.

d. The place and date of the meeting of shareholders at which the amendment was adopted, and the kind and period of notice given to the shareholders.

e. For a stock corporation, the number of shares entitled to vote on the amendment, and if the shares of any class are entitled to vote thereon as a class, the number of shares of each class. For a mutual corporation, the number of member votes entitled to be cast.

f. The number of shares or member votes voted for and against such amendment, respectively, and if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment.

2. The articles of amendment shall be delivered to the superintendent together with the applicable fees for the filing and recording of the articles of amendment.

[C71, 73, 75, 77, 79, 81, §524.1504]

95 Acts, ch 148, §129; 2012 Acts, ch 1017, §16, 18

Referred to in **§524.312**, **§524.1505**

524.1505 Approval of articles of amendment.

1. Upon receipt of the articles of amendment the superintendent shall conduct such

investigation as the superintendent may deem necessary to determine whether the articles of amendment satisfy the requirements of **section 524.1504** and whether the amendment, if effected, will in any way prejudice the interests of the depositors of the state bank.

2. Within sixty days after receipt of the articles of amendment the superintendent shall approve or disapprove the articles of amendment on the basis of the investigation. If the superintendent shall approve the articles of amendment, the superintendent shall deliver them with the written approval to the secretary of state and notify the state bank of the action. If the superintendent shall disapprove the articles of amendment, the superintendent shall give written notice to the state bank of the disapproval and a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act, **chapter 17A**. Notwithstanding the terms of said Act, such a petition for judicial review must be filed within thirty days after the superintendent notifies the state bank of the decision.

[C71, 73, 75, 77, 79, 81, §524.1505]
2003 Acts, ch 44, §114
Referred to in **§524.1508**

524.1506 Certificate of amendment.

1. The secretary of state shall record the articles of amendment, and the articles of amendment shall be filed in the office of the county recorder in the county in which the state bank has its principal place of business. The secretary of state upon the filing of the articles of amendment shall issue a certificate of amendment and send the same to the state bank.

2. Upon the issuance of the certificate of amendment by the secretary of state, the amendment becomes effective and the articles of incorporation are deemed to be amended accordingly.

[C71, 73, 75, 77, 79, 81, §524.1506]
95 Acts, ch 148, §130
Referred to in **§524.312**

524.1507 Repealed by 95 Acts, ch 148, §135.

524.1508 Restated articles of incorporation.

1. A state bank may at any time restate its articles of incorporation, which may be amended by the restatement, so long as its articles of incorporation as restated contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making the restatement. Restated articles of incorporation shall be adopted in the following manner:

a. The board of directors shall adopt a resolution setting forth the proposed restated articles of incorporation, which may include an amendment or amendments to the articles of incorporation of the state bank to be made thereby, and directing that the restated articles, including such amendment or amendments, be submitted to a vote at a meeting of shareholders, which may be either an annual meeting or a special meeting.

b. Written or printed notice setting forth the proposed restated articles or a summary of the provisions of the proposed restated articles shall be given to each shareholder of record entitled to vote on the proposed restated articles within the time and in the manner provided in **section 524.533**. If the meeting be an annual meeting, the proposed restated articles may be included in the notice of such annual meeting. If the restated articles include an amendment or amendments to the articles of incorporation, the notice shall separately set forth such amendment or amendments or a summary of the changes to be effected by the amendment or amendments.

c. At the meeting a vote of the shareholders entitled to vote on the proposed restated articles shall be taken on the proposed restated articles. The proposed restated articles shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote, unless such restated articles include an amendment to the articles of incorporation which, if contained in a proposed amendment to articles of incorporation to be made without restatement of the articles of incorporation, would entitle a class of shares to vote as a class on the proposed restated articles, in which event the proposed restated

articles shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote on the proposed restated articles as a class, and of the total shares entitled to vote on the proposed restated articles.

2. Upon approval, restated articles of incorporation shall be executed by the state bank by its president or vice president and by its cashier or an assistant cashier, and verified by one of the officers signing the restated articles, and shall set forth, as then stated in the articles of incorporation of the state bank and, if the restated articles of incorporation included an amendment or amendments to the articles of incorporation, as so amended, the material and contents described in **section 524.302**.

3. The restated articles of incorporation shall set forth also a statement that they correctly set forth the provisions of the articles of incorporation as amended, that they have been duly adopted as required by law and that they supersede the original articles of incorporation and all amendments to the original articles of incorporation.

4. The restated articles of incorporation shall be delivered to the superintendent together with the applicable fees for the filing and recording of the restated articles of incorporation. The superintendent shall conduct such investigation and give approval or disapproval, as provided in **section 524.1505**. If the superintendent approves the restated articles of incorporation, the superintendent shall deliver them with the written approval on the restated articles of incorporation to the secretary of state for filing, and the restated articles of incorporation shall be filed in the office of the county recorder. The secretary of state upon filing the restated articles of incorporation shall issue a restated certificate of incorporation and send the certificate to the state bank or its representative.

5. Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation including any amendment or amendments to the articles of incorporation are effective and supersede the original articles of incorporation and all amendments to the original articles of incorporation.

[C71, 73, 75, 77, 79, 81, §524.1508]

95 Acts, ch 148, §131; 2012 Acts, ch 1023, §157

524.1509 Reverse stock split.

A state bank may effect a reverse stock split or similar change in capital structure by renewal, amendment, or restatement of existing articles of incorporation, provided the requirements of the superintendent are satisfied.

95 Acts, ch 148, §132

524.1510 Effect of amendment.

An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the state bank, a proceeding to which the state bank is a party, or the existing rights of persons other than shareholders of the state bank. An amendment changing the state bank's name does not abate a proceeding brought by or against the state bank in its former name.

95 Acts, ch 148, §133

DIVISION XVI

PENALTIES

524.1601 Penalties and criminal provisions applicable to directors, officers, and employees of state banks and bank holding companies.

1. A director, officer, or employee of a state bank or bank holding company who willfully violates any of the provisions of **subsection 4 of section 524.612**, **section 524.613**, **subsection 2 of section 524.706**, insofar as such subsection incorporates **subsection 4 of section 524.612**, or **section 524.710**, shall be guilty of a serious misdemeanor, and, in the following circumstances, shall pay an additional fine or fines equal to:

a. The amount of money or the value of the property which the director, officer, or

employee received for procuring, or attempting to procure, a loan, extension of credit, or investment by the state bank or bank holding company, upon conviction of a violation of **subsection 1 of section 524.613**, or of **subsection 1 of section 524.710**.

b. The amount by which the director's, officer's, or employee's deposit account in the state bank or bank holding company is overdrawn, upon conviction of a violation of **subsection 2 of section 524.613**, or of **subsection 2 of section 524.710**.

c. The amount of any profit which the director, officer, or employee receives on the transaction, upon conviction of a violation of **subsection 4 of section 524.612**, or of **subsection 2 of section 524.706**, insofar as each applies to purchases from and sales to a state bank or bank holding company upon terms more favorable to such director, officer, or employee than those offered to other persons.

d. The amount of profit, fees, or other compensation received, upon conviction of a violation of **section 524.710, subsection 1**, paragraph "*b*".

2. A director or officer who willfully makes or receives a loan in violation of **subsection 1 of section 524.612**, or **subsection 1 of section 524.706**, shall be guilty of a serious misdemeanor and shall be subject to an additional fine equal to that amount of the loan in excess of the limitation imposed by such subsections, and shall be forever disqualified from acting as a director or officer of any state bank or bank holding company. For the purpose of **this subsection**, amounts which are treated as obligations of an officer or director pursuant to **subsection 5 of section 524.612** shall be considered in determining whether the loan or extension of credit is in violation of **subsection 1 of section 524.612** and **subsection 1 of section 524.706**.

3. A director, officer, or employee of a state bank or bank holding company who willfully makes or receives a loan or extension of credit of funds held by the state bank or bank holding company as fiduciary, in violation of **subsection 4 of section 524.1002** shall be guilty of a serious misdemeanor and shall be subject to a further fine equal to the amount of the loan or extension of credit made in violation of **subsection 4 of section 524.1002**, and shall be forever disqualified from acting as a director, officer, or employee of any state bank or bank holding company.

4. A director, officer, or employee of a state bank or bank holding company who willfully violates, or participates in the violation of, **section 524.814**, or **section 524.819**, shall be guilty of a serious misdemeanor.

[C97, S13, §1869; C24, 27, 31, 35, 39, §**9221;** C46, 50, 54, 58, 62, 66, §528.7, 528.63; C71, 73, 75, 77, 79, 81, §524.1601]

98 Acts, ch 1036, §16; 2006 Acts, ch 1015, §9; 2007 Acts, ch 22, §93

524.1602 Penalties applicable to state bank.

The superintendent may impose a penalty on a state bank of up to one thousand dollars for each day:

1. That it holds investments for its own account in bonds or securities in violation of **section 524.901**.

2. On which it accepts and holds drafts in violation of **section 524.903**.

3. On which it has money loaned, credit extended or holds discounted or purchased evidences of indebtedness or agreements for the payment of money, in violation of **sections 524.904 to 524.907**.

4. On which it has money loaned, invested or is otherwise in violation of **section 524.1102** or **524.1104**.

5. On which it publishes, disseminates or distributes any advertising containing any false, misleading or deceptive statements concerning rates, terms and conditions on which loans are made or deposits are received, in violation of **section 524.1606**.

[C71, 73, 75, 77, 79, 81, §524.1602]

84 Acts, ch 1067, §42; 2006 Acts, ch 1015, §10

524.1603 Engaging in business unlawfully.

1. Any person who willfully engages in the business of receiving money for deposit or transacts the business generally done by banks, or who willfully establishes a place of

business for such purposes, in violation of **section 524.107**, **subsection 1**, shall be guilty of a serious misdemeanor.

2. The superintendent may impose a penalty on a state bank of up to one thousand dollars for each day that it violates the provisions of **section 524.1201**.

[C97, S13, §1889; C24, 27, 31, 35, 39, §**9151, 9260;** C46, 50, 54, 58, 62, 66, §524.25, 528.53; C71, 73, 75, 77, 79, 81, §524.1603]

2006 Acts, ch 1015, §11

Section not amended; editorial change applied

524.1604 Failure to file report or make statement.

1. Any person whose duty it is to make statements or file reports as may be required by **this chapter**, and who willfully neglects or refuses to perform such duty, shall be guilty of a simple misdemeanor.

2. A state bank which fails to furnish to the superintendent the statement of condition required within the time required by **this chapter**, or fails to furnish the superintendent any report or other information the superintendent is legally authorized to request, within ten days of the superintendent's request therefor, or within the time required by **this chapter**, shall pay to the superintendent a penalty of fifty dollars for each day of delinquency, unless prior to such delinquency the superintendent has extended the time within which the same may be filed.

3. Any officer or employee who violates **section 524.709** shall be guilty of a simple misdemeanor.

[C97, §1886; S13, §1871; C24, 27, 31, 35, 39, §**9226, 9230, 9281;** C46, 50, 54, 58, 62, 66, §528.20, 528.24, 528.83; C71, 73, 75, 77, 79, 81, §524.1604]

524.1605 False statements, reports and felonious acts.

1. Any director, officer or employee of a state bank who shall knowingly subscribe or make any false statements or false entries in the books, records, or memoranda of a state bank, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe or make false reports, or shall knowingly divert the funds of the state bank to other purposes than those authorized by law, or who commits any other act with intent to defraud the state bank or any other person shall be guilty of a class "C" felony, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

2. Any officer or employee of a state bank who, with intent to defraud the state bank or any other person, certifies any check when there are not sufficient funds on hand available to the credit of the drawer of said check to pay the same, or who issues any certificate of deposit when funds have not been deposited equal to the amount of such certificate, or who, with intent to defraud the state bank or any other person, draws any draft or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation or instrument, or participates in, or receives directly or indirectly any money, property or other benefit from any transaction, loan, contract or other act of a state bank shall be guilty of a class "C" felony, and shall, in either event be forever disqualified from acting as an officer or employee of any state bank.

[C97, §1887; C24, 27, §9282; C31, 35, §9282, 9283-c2; C39, §**9282, 9283.02;** C46, 50, 54, 58, 62, 66, §528.84, 528.87; C71, 73, 75, 77, 79, 81, §524.1605]

524.1606 Fraudulent advertising or notice.

A state bank shall not publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning the rates, terms or conditions on which loans are made or deposits are received, any charge which the state bank is authorized to impose pursuant to **this chapter**, or the financial condition of the state bank. Any officer or employee of a state bank who willfully violates the provisions of **this section** shall be guilty of a fraudulent practice.

[C97, §1859; C24, 27, 31, 35, 39, §**9260;** C46, 50, 54, 58, 62, 66, §526.44, 529.12; C71, 73, 75, 77, 79, 81, §524.1606]

Referred to in **§524.1602**

524.1607 False statement for credit.

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

a. *"Financial institution"* means a financial institution as defined in 18 U.S.C. §20.

b. *"Mortgage banker"* means a person who makes or originates mortgage loans on real property located in this state.

c. *"Mortgage broker"* means a person who arranges or negotiates, or attempts to arrange or negotiate, mortgage loans on real property located in this state.

2. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person, or any other person in which such person is interested or for whom such person is acting, with the intent that such statement shall be relied upon by a financial institution, a mortgage banker, a mortgage broker, or any other entity licensed by the banking division for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a fraudulent practice.

[C31, 35, §9283-c3; C39, §**9283.03;** C46, 50, 54, 58, 62, 66, §528.88; C71, 73, 75, 77, 79, 81, §524.1607]

2008 Acts, ch 1160, §8

Fraudulent practices, see **§714.8 – 714.14**

524.1608 Penalty for accepting deposits while insolvent.

If a state bank shall accept any deposit or renew any certificate of deposit in violation of **section 524.805**, **subsection 4**, any officer or employee knowing of such insolvency who willfully receives, accepts or renews or is accessory to or otherwise knowingly permits such acceptance shall be guilty of a fraudulent practice and shall, in either event be forever disqualified from acting as an officer or employee of any state bank.

[C97, §1885; C24, 27, 31, 35, 39, §**9280;** C46, 50, 54, 58, 62, 66, §528.82; C71, 73, 75, 77, 79, 81, §524.1608]

Section not amended; editorial change applied

524.1609 False statements concerning state banks.

Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any state bank which imputes, or tends to impute, insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke, or aid in causing or provoking, a general withdrawal of deposits from such state bank, or which may otherwise injure or tend to injure the business or goodwill of such state bank, shall be guilty of a simple misdemeanor.

[C31, 35, §9283-c4; C39, §**9283.04;** C46, 50, 54, 58, 62, 66, §528.89; C71, 73, 75, 77, 79, 81, §524.1609]

524.1610 Violation of prohibition against receiving a commission for organizing a state bank.

Any person violating the provisions of **section 524.311** shall be guilty of a simple misdemeanor.

[C24, 27, 31, 35, 39, §**9276;** C46, 50, 54, 58, 62, 66, §528.75; C71, 73, 75, 77, 79, 81, §524.1610]

524.1611 Offenses involving employees of banking division.

1. Any person violating the provisions of **section 524.211, subsection 1**, shall be guilty of a fraudulent practice, and shall be subject to a further fine of a sum equal to the amount of the value of the property given or received or the money so loaned or borrowed. An employee of the division of banking convicted of a violation of such subsection shall be immediately discharged from employment and shall be forever disqualified from holding any position in the banking division.

2. Any examiner violating the provision of **section 524.212** shall be guilty of a serious misdemeanor. Any examiner convicted of a violation of **section 524.212** shall be immediately

discharged from employment and shall be forever disqualified from holding any position in the banking division.

[C71, 73, 75, 77, 79, 81, §524.1611]

2004 Acts, ch 1141, §31

DIVISION XVII

PRIVATE BANKS

524.1701 through 524.1703 Repealed by 95 Acts, ch 148, §135.

DIVISION XVIII

BANK HOLDING COMPANIES

524.1801 Definitions.

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

1. *"Bank holding company"* means bank holding company as defined in 12 U.S.C. §1841(a), and also includes a company that would become a bank holding company upon completion of an acquisition.

2. *"Company"* means company as defined in 12 U.S.C. §1841(b).

3. *"Control"* means control as provided in 12 U.S.C. §1841(a).

4. *"Location"* means, for purposes of determining where a bank or bank holding company is located, the following:

a. A bank is located in the state in which its principal place of business or main office is physically located.

b. A bank holding company is located in the state which is its home state as determined under 12 U.S.C. §1841(o)(4).

5. *"Out-of-state bank holding company"* means out-of-state bank holding company as defined in 12 U.S.C. §1841(o).

[C73, 75, 77, 79, 81, §524.1801]

96 Acts, ch 1056, §17

Referred to in **§524.107**, **§524.1007**, **§524.1802**, **§524.1806**, **§524.1807**, **§527.5**

524.1802 Limitation.

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

a. *"Acquisition"* means any of the following:

(1) Obtaining direct or indirect ownership or control of more than twenty-five percent of any class of the voting shares of a depository institution.

(2) Obtaining the power to directly or indirectly control in any manner the election of a majority of the directors, trustees, or other persons exercising similar functions of a depository institution.

(3) Obtaining direct or indirect ownership or control of, or acquisition or assumption of, the deposits of a depository institution or the deposits of any branch, office, or other facility of a depository institution.

b. *"Affiliate"* of a depository institution or holding company includes a corporation, limited liability company, trust, estate, association, or other similar organization which satisfies any of the following:

(1) The depository institution or holding company directly or indirectly owns or controls either twenty-five percent of the voting shares or more than twenty-five percent of the number of shares voted for the election of such entity's directors, trustees, or other individuals exercising similar functions, or controls in any manner the election of a majority of its directors, trustees, or other individuals exercising similar functions.

(2) Control is held directly or indirectly in such entity through share ownership, or in any other manner, by the shareholders of the depository institution or holding company who own

or control either twenty-five percent of the shares of such depository institution or holding company or more than twenty-five percent of the number of shares voted for the election of directors, trustees, or other individuals exercising similar functions of such depository institution or holding company, or by trustees for the benefit of the shareholders of any such depository institution or holding company.

(3) A majority of such entity's directors, trustees, or other individuals exercising similar functions are directors of the depository institution or holding company.

(4) Directly or indirectly owns or controls either twenty-five percent of the voting shares of the depository institution or holding company or more than twenty-five percent of the number of shares voted for the election of directors, trustees, or other individuals exercising similar functions of the depository institution or holding company, or controls in any manner the election of a majority of the directors, trustees, or other individuals exercising similar functions of the depository institution or holding company, or for the benefit of whose shareholders or members all or substantially all of the outstanding voting shares of the depository institution or holding company are held by trustees.

c. *"Deposit"* means deposit as defined in 12 U.S.C. §1813.

d. *"Deposit in this state"* means a deposit properly shown in a deposit report or in a statement under **subsection 4**, paragraph *"c"*, *"d"*, *"h"*, or *"i"*, as a deposit at a depository institution in this state or at a branch, office, or other facility of the depository institution in this state, without regard to the location of the depositor.

e. *"Deposit report"* means the annual report that identifies deposits by branch, office, or other facility and that is filed by a depository institution with the federal deposit insurance corporation or the office of thrift supervision. For a depository institution not required to file an annual report that identifies deposits by branch, office, or other facility, *"deposit report"* means the quarterly report of condition filed by the depository institution for the quarter that ends on or nearest to the date as of which deposits are stated in a deposit report that identifies deposits by branch, office, or other facility and that is required to be filed by other depository institutions having the same type of charter. The date of a deposit report means the date as of which deposits are stated in the deposit report.

f. *"Depository institution"* means a depository institution as defined in 12 U.S.C. §1813.

g. *"Holding company"* means a bank holding company as defined in **section 524.1801** and a savings and loan holding company as defined in 12 U.S.C. §1467a.

h. *"Incorporated in any state"* means a limited liability company organized as a state bank under **this chapter** and a limited liability company organized as a state bank under the laws of any state as defined in 12 U.S.C. §1813(a)(3).

i. *"Series of acquisitions"* means both of the following:

(1) All acquisitions made at any time after the date of the most recent available deposit report and prior to the date of a statement under **subsection 4**, and all acquisitions made during such time by any depository institution or holding company that is acquired by the depository institution or holding company making the statement, and all acquisitions made during such time by any such depository institution or holding company so acquired.

(2) All acquisitions made at any time between the dates of the two most recent available deposit reports, that are not shown on the most recent available deposit report, by a depository institution or holding company making a statement under **subsection 4**, and all acquisitions made during such time by any depository institution or holding company that is acquired by the depository institution or holding company making the statement, and all acquisitions made during such time by any such depository institution or holding company so acquired.

2. A depository institution or holding company shall not directly or indirectly acquire a depository institution or the deposits of a depository institution if any of the following apply:

a. The acquirer is a depository institution and, upon the acquisition, the total deposits in this state directly or indirectly controlled by the depository institution would exceed fifteen percent of the total deposits in this state, as determined under **this section**.

b. The acquirer is a holding company and, upon the acquisition, the total deposits in this state directly or indirectly controlled by the holding company would exceed fifteen percent of the total deposits in this state, as determined under **this section**.

c. The acquirer is a depository institution or a holding company which is directly or indirectly owned or controlled by a holding company and, upon the acquisition, the total deposits in this state directly or indirectly controlled by the holding company which owns or controls the acquiring depository institution or holding company would exceed fifteen percent of the total deposits in this state, as determined under **this section**.

3. On or after January 1, 2000, a depository institution shall not directly or indirectly cause or permit the transfer, assignment, or other disposition of deposits, or the conversion of deposits to nondeposit investments or other nondeposit products, whether by written agreement or otherwise, for the purpose of achieving compliance with the deposit limitation set forth in **subsection 2**. The following transfers or conversions by a depository institution shall not be deemed to be made for the purpose of achieving such compliance:

a. A transfer or conversion in the ordinary course of business, such as compliance with a contract to transfer funds from deposit accounts into repurchase agreements, mutual funds, or other nondeposit investments.

b. A transfer or conversion of deposits held in the name of an affiliate as a depositor of the depository institution.

c. A transfer of deposits, which are not subject to reacquisition, in an acquisition by an entity that is not an affiliate of the depository institution.

4. If the superintendent determines that an acquisition may involve a question of compliance with the deposit limitation set forth in **subsection 2**, the superintendent shall require that each depository institution and holding company involved in the acquisition submit to the superintendent a statement certified by its president, chief executive officer, or chief financial officer, which states that a transfer, assignment, or other disposition of deposits prohibited by **subsection 3** has not been made. The statement, in sufficient detail to permit the superintendent to make the determinations required under **subsections 5 and 6**, shall also set forth the following:

a. The total amount of deposits in this state directly or indirectly held or controlled by the depository institution making the statement, or the deposits in this state directly or indirectly held or controlled by all depository institutions that are directly or indirectly owned or controlled by the holding company, on the date of the most recent available deposit reports of the depository institutions.

b. If all of the deposits of a depository institution making a deposit report were directly or indirectly acquired since the date of the most recent available deposit report in an acquisition or as a result of a series of acquisitions, the statement shall set forth the amount of the deposits in this state acquired from each such other depository institution measured as of the date of the most recent available deposit report of each such depository institution made prior to the acquisition.

c. If less than all of the deposits of a depository institution were directly or indirectly acquired since the date of the most recent available deposit report in an acquisition or as a result of a series of acquisitions, the statement shall set forth the total amount of deposits in this state directly or indirectly acquired in such acquisitions.

d. The total amount of deposits in this state directly or indirectly owned or controlled by the depository institution or holding company making the statement that have been directly or indirectly transferred or assigned in a transaction since the date of the most recent available deposit report to an entity that is not an affiliate of the depository institution or holding company making the statement, and that are not subject to reacquisition.

e. The total amount of deposits in this state set forth in paragraph "*a*" plus the deposits described in paragraphs "*b*" and "*c*", and less the deposits described in paragraph "*d*".

f. The total amount of deposits in this state directly or indirectly held or controlled by the depository institution making the statement, or in the case of a statement by a holding company, the total amount of deposits in this state directly or indirectly held or controlled by all depository institutions that are directly or indirectly owned or controlled by the holding company, on the date of the earlier of the two most recent available deposit reports of the depository institutions.

g. If all of the deposits of any other depository institution making a deposit report were acquired between the dates of the two most recent available deposit reports in an acquisition

or as a result of a series of acquisitions, the statement shall set forth the amount of the deposits in this state acquired from each such other depository institution measured as of the date of the earlier of the two most recent available deposit reports of each such depository institution made prior to the acquisition.

h. If less than all of the deposits of any depository institution were directly or indirectly acquired between the dates of the two most recent available deposit reports in an acquisition or as a result of a series of acquisitions, the statement shall set forth the total amount of deposits in this state directly or indirectly acquired in such acquisitions.

i. The total amount of deposits in this state directly or indirectly owned or controlled by the depository institution or holding company making the statement that have been directly or indirectly transferred or assigned in a transaction between the dates of the two most recent available deposit reports to an entity that is not an affiliate of the depository institution or holding company making the statement, and that are not subject to reacquisition.

j. The total amount of deposits in this state set forth in paragraph "*f*" plus the deposits described in paragraphs "*g*" and "*h*", and less the deposits described in paragraph "*i*".

5. The superintendent may conduct such review as the superintendent considers necessary to verify the statements submitted under **subsection 4**, paragraphs "*a*", "*b*", "*c*", and "*d*". The superintendent shall calculate the following fraction:

a. The numerator is the sum of the deposits in this state directly or indirectly owned or controlled by the depository institutions involved in the acquisition and the deposits in this state directly or indirectly owned or controlled by all other depository institutions directly or indirectly owned or controlled by a holding company involved in the acquisition, as stated in **subsection 4**, paragraph "*e*".

b. The denominator is the deposits in this state of all depository institutions as stated in the most recent available deposit reports.

6. The superintendent may conduct such review as the superintendent considers necessary to verify the statements submitted under **subsection 4**, paragraphs "*f*", "*g*", "*h*", and "*i*". The superintendent shall calculate the following fraction:

a. The numerator is the average of the sum of the deposits in this state directly or indirectly owned or controlled by the depository institutions involved in the acquisition and the deposits in this state directly or indirectly owned or controlled by all other depository institutions directly or indirectly owned or controlled by a holding company involved in the acquisition, as stated in **subsection 4**, paragraphs "*e*" and "*j*".

b. The denominator is the average of the deposits in this state of all depository institutions as stated in the two most recent available deposit reports.

7. If the quotient determined by the calculation in either **subsection 5 or 6** exceeds fifteen percent, the proposed acquisition does not comply with the limitation of **subsection 2**.

[C73, 75, 77, 79, 81, §524.1802; 82 Acts, ch 1253, §3]

84 Acts, ch 1230, §25; 90 Acts, ch 1002, §2; 97 Acts, ch 23, §64; 2000 Acts, ch 1094, §1, 2; 2004 Acts, ch 1141, §72

Referred to in **§524.1807**

524.1803 Offer to purchase stock. Repealed by 2006 Acts, ch 1015, §22.

524.1804 Notice of acquisition.

A bank holding company which proposes to directly or indirectly acquire control of, or directly or indirectly acquire all or substantially all of the assets of, a state bank or national bank, shall provide to the superintendent a copy of the application and any modifications or amendments to the application submitted to the federal reserve board for permission to take such action at the same time the application is transmitted to the federal reserve board. The superintendent may conduct such investigation into and evaluation of the proposed action as the superintendent deems necessary and appropriate, and may submit to the federal reserve

board any information so obtained together with the superintendent's own comments or recommendations regarding the proposed acquisition.

[C73, 75, 77, 79, 81, §524.1804]

96 Acts, ch 1056, §18

Referred to in §524.544, §524.1807

524.1805 Restrictions on acquisitions and mergers.

1. An out-of-state bank or out-of-state bank holding company shall not directly or indirectly acquire control of, or directly or indirectly acquire all or substantially all of the assets of, a bank located in this state unless the bank has been in continuous existence and operation for at least five years.

2. For purposes of **subsection 1**, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, a bank located in this state is deemed to have been in existence for the same period of time as the bank to be acquired.

3. For purposes of **subsection 1**, the period of existence and operation of a bank is deemed to be continuous, notwithstanding any of the following:

a. Any direct or indirect change in the name, ownership, or control of the bank.

b. Any rechartering or merger of the bank.

4. For purposes of **subsection 1**, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, one or more branches owned and operated on January 1, 1997, by a savings association, as defined in 12 U.S.C. §1813, which association is an affiliate of the bank, 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 savings association from which the branch or branches were acquired.

5. For purposes of **subsection 1**, a bank that resulted from the conversion of a 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.

6. An out-of-state bank or out-of-state bank holding company that is organized under laws other than those of this state is subject to and shall comply with the provisions of **chapter 490, division XV**, relating to foreign corporations, and shall immediately provide the superintendent of banking with a copy of each filing submitted to the secretary of state under that division.

[C73, 75, 77, 79, 81, §524.1805]

96 Acts, ch 1056, §19; 97 Acts, ch 50, §2; 2007 Acts, ch 88, §17; 2012 Acts, ch 1017, §120

Referred to in §524.1807

524.1806 Banks owned or controlled — officers and directors.

An individual who is a director or an officer of a bank holding company, as specified by **section 524.1801**, is deemed to be a director or an officer, or both, as the case may be, of each bank so owned or controlled by that bank holding company, for the purposes of **sections 524.612**, **524.613** and **524.706**.

[C73, 75, 77, 79, 81, §524.1806]

95 Acts, ch 148, §134

Referred to in §524.1807

524.1807 Penalties.

Any bank holding company which willfully violates any provision of **sections 524.1801 to 524.1806** shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars for each day during which the violation continues. Any individual who willfully participates in a violation of any provisions of **sections 524.1801 to 524.1806** shall be guilty of a serious misdemeanor.

[C73, 75, 77, 79, 81, §524.1807]

524.1808 Insurance sales.

1. Insurance activities in Iowa of an out-of-state bank holding company and its subsidiaries are subject to regulation, including but not limited to regulation under Title XIII, subtitle 1, in the same manner and to the same extent as are the insurance activities of an Iowa bank holding company and its subsidiaries.

2. An authorization for a state bank to engage in activities regulated under Title XIII, subtitle 1, if any, does not grant an out-of-state bank holding company that acquires a state bank or any state bank owned or controlled by such bank holding company or any subsidiary or affiliate the ability or right to engage in such activities outside of this state.

90 Acts, ch 1002, §13; 90 Acts, ch 1266, §57
C91, §524.1912
96 Acts, ch 1056, §20, 23
C97, §524.1808

524.1809 Mutual bank holding companies.

1. A state bank may be owned, directly or indirectly, by a mutual bank holding company.

2. A mutual holding company authorized pursuant to 12 U.S.C. §1467a and regulations promulgated thereunder may convert to a mutual bank holding company authorized under **this chapter**.

3. A mutual corporation may reorganize as a mutual holding company in the manner provided in 12 U.S.C. §1467a(o). The resulting mutual holding company shall be a mutual bank holding company authorized under **this chapter**.

4. A mutual bank holding company authorized under **this chapter** shall also be subject to **chapter 490**, the Iowa business corporations Act. If a provision of **chapter 490** conflicts with the provisions of **this chapter** or a rule of the superintendent adopted pursuant to **this chapter**, the provisions of **this chapter** or rule of the superintendent shall control.

5. The superintendent may adopt rules pursuant to **chapter 17A** pertaining to mutual bank holding companies and reorganizations into mutual bank holding companies under this chapter.

2012 Acts, ch 1017, §17, 18

DIVISION XIX

REGIONAL BANKING

524.1901 through 524.1911 Repealed by 96 Acts, ch 1056, §24.

524.1912 Transferred to §524.1808.

524.1913 Repealed by 90 Acts, ch 1266, §61(3).

DIVISION XX

APPLICABILITY

524.2001 Applicability of other chapters.

Chapters 489, **490**, **491**, **492**, and **493** do not apply to banks except as provided by **this chapter**.

[C71, §524.1802; C73, 75, 77, 79, 81, §524.1902]
90 Acts, ch 1205, §50
C91, §524.2001
2004 Acts, ch 1141, §73; 2008 Acts, ch 1162, §151, 154, 155