

CHAPTER 16
INDUSTRIAL LOANS

[Prior to 4/22/87, see Auditor of State[130] Ch 1]

187—16.1(536A) Licenses. The license and current license renewal card of each licensee shall be prominently displayed and available for easy reading by the public in the place of business of the licensee. No refund of a license fee, in whole or in part, shall be made wherein a license is suspended, revoked, or surrendered.

187—16.2(536A) Other business in same office. The superintendent, upon receiving a completed application from a licensee, may authorize that licensee to conduct its industrial lending business within the same office, room, suite or place of business in which any other business is conducted except that no authorization will be granted to a licensee to conduct its industrial lending business within the same office, room, suite or place of business where the sale of tangible personal property is conducted; except that the sale of repossessed property shall be allowed.

187—16.3(536A) Multiple business authorization. This regulation shall be known as the “Multiple Business Regulation.” Any authorization granted by this regulation shall be conditional upon full compliance with all parts thereof. Printed copies of the “Application for Multiple Business Authorization” shall be obtained from the office of Superintendent of Banking, Iowa Department of Commerce, Division of Banking, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. The printed application form shall be used by each licensee when applying for multiple business authorization. All information shall be supplied in full and where space is inadequate for a full answer, a rider shall be attached.

187—16.4(536A) Multiple business revocation. If the licensee or other business affiliate fails to comply with any conditions set forth in these rules, the superintendent, upon giving ten days’ advance written notice to the licensee by certified mail stating the superintendent’s contemplated action and the grounds thereof, and after granting the licensee an adequate hearing, may revoke the licensee’s authorization to conduct a multiple business operation.

187—16.5(536A) Examination of books. The superintendent or the superintendent’s duly appointed representative shall have the right to examine and investigate the books, accounts and records wherever situated of all businesses authorized or conducted by a licensee licensed pursuant to Iowa Code chapter 536A. All books, accounts and records pertaining to businesses conducted pursuant to such license shall be made readily available to the examiners who may investigate without prior notice.

187—16.6(536A) Records. Records for loans made under the Iowa industrial loan law shall be kept separate from other types of business conducted in the office of the licensee. Each licensee shall keep the following records in its place of business, except that combination forms and special office systems may be used in lieu thereof, if approved by the superintendent in writing.

16.6(1) Loan register.

a. The loan register shall contain the original entry and shall show for every loan the loan number, date of loan, name of borrower, nature of security, and amount of note.

b. The loan register shall be kept chronologically in the order made.

16.6(2) Account ledger cards.

a. An individual account ledger card shall be kept for each account and shall show at least the loan number, name and address of the borrower, date of loan, date of first payment, date of final payment, terms of repayment, amount financed, total of payments, face amount of note if different from amount financed or total of payments, cash advanced to borrower, cash advanced to pay balance of previous industrial loan, interest or discount charge, service charge, attorney fee, fee paid or to be paid to a public official for recording or filing a mortgage or for satisfying a judgment or lien on any real or personal

property securing the loan, type and cost of each credit insurance policy, and type and cost of any other insurance policy.

b. All payments shall be credited upon the account ledger card as of the same day they are received. No erasures whatsoever may be made in the payment section of any account ledger. In case of error, a line shall be drawn in ink through the improper entry with the correct entry made on the following line.

c. If payment is made through the proceeds of an insurance claim or the sale of security, it shall be so designated. When a death claim is filed, the exact date of death is to be recorded on the ledger card.

d. The account ledger card for an interest-bearing loan shall show the amount and date of each payment received, the allocation of the payment to interest and principal, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the card for an interest-bearing loan must show either the date to which interest is paid or the amount of interest then due but unpaid.

e. The account ledger card for a precomputed loan shall show the amount and date of each payment received, the unpaid balance of the note after applying such payment, and the amount and description of any additional charges collected. If deferment charges are collected in whole or in part, the ledger card shall indicate any uncollected portion of the deferment charge, the number of installments deferred, plus the date of the final installment.

f. When a loan is prepaid in full, the account ledger card shall show the date of prepayment, the amount paid to discharge the loan, the amount of the interest or discount rebate, the refund of the unearned premiums of each credit insurance policy, or any other insurance policy, and any deduction from the rebate or refunds for previously earned but uncollected charges.

g. Account ledger cards relating to each type of business operation must be filed in separate groups. Paid-in-full or renewed account ledger cards must also be filed in a similar manner and must be retained as a separate group from one banking division examination to the next.

16.6(3) Account ledger card control. A record shall be maintained in the licensed office showing the total number of accounts and amount receivable for each type of business conducted. This record shall be posted either daily or weekly.

16.6(4) Original paper file.

a. A separate file, envelope or folder shall be maintained for each borrower or loan account.

b. Such file shall contain all papers relating to the borrower or the loan with the exception of the promissory note which may be kept in a separate promissory note file. Copies of the note and security agreement shall be substituted for the original documents if the loan has been sold, pledged or assigned as collateral security or if the original papers are in the custody of a court or agent for collection.

c. All instruments evidencing or securing a loan must bear the loan number.

d. No instrument or part thereof shall be left blank for completion after the borrower(s) has signed the instrument.

16.6(5) Promissory note file. If the promissory notes are not kept in the file of original papers and have not been sold, pledged or assigned as collateral security or placed in the custody of a court or agent for collection, then they must be kept in a promissory note file.

16.6(6) Index. An alphabetical index shall be maintained for each borrower, endorser, comaker, surety or other party currently indebted to the licensee or to any other business operated within the same office, room, suite or place of business. The index shall show the following information: the name of the obligor, the account number assigned to the obligor's indebtedness, the type of indebtedness (regulated loan, industrial loan, insurance, receivable, or any receivable), information showing whether the obligor is other than a borrower and sufficient information to locate all account ledger cards.

16.6(7) Disbursement voucher. Licensees shall use a disbursement voucher or equivalent document in conjunction with each loan showing a detailed itemization of the distribution of the loan proceeds.

16.6(8) EDP systems. With prior written approval from the superintendent, the licensee's use, in whole or in part, of mechanical or electronic data processing equipment to maintain its loan account records, or other business records, shall be permitted if it is determined that the EDP system provides the same information as is otherwise required.

187—16.7(536A) Record retention. Licensees shall be required to preserve their books, accounts and files for a minimum period of two years following the date of final entry recorded therein.

187—16.8(536A) Loan conversion. If any person or husband and wife together is indebted in any amount on a loan made under the provisions of the Iowa industrial loan law, no loan shall be made to said person or husband and wife together under the Iowa regulated loan law unless the proceeds of the regulated loan, after deducting insurance premiums, exceed by \$200 or more the amount necessary to pay in full the balance due on the industrial loan after the normal rebates have been made. The proceeds of the regulated loan shall, to the extent necessary, be applied to pay off the balance of the industrial loan.

187—16.9(536A) Mail loans. A licensee shall have authority to make and complete loans by mail from the lender’s licensed office. In making such loans, the lender shall mail all the necessary papers to the borrower; and upon completion of such papers by the borrower, the check or money order representing proceeds of the loan shall be mailed from the licensee’s office.

187—16.10(536A) Real estate loan reporting and disclosure. Each licensee which is a reporting financial institution shall file with the Iowa finance authority and the superintendent a report showing mortgage loans made in Iowa, by census tract, in form and substance as required by the Federal Home Mortgage Act and regulations promulgated under that Act.

This rule is intended to implement Iowa Code sections 535A.1 and 535A.4.

187—16.11(536A) Thrift certificates. A licensee shall notify the superintendent in writing before issuing thrift certificates or similar evidences of indebtedness to the general public.

16.11(1) Acknowledgment. When a new customer purchases a thrift certificate or similar evidence of indebtedness that is not insured by a federal deposit insurance agency, the customer shall sign an acknowledgment. The acknowledgment shall be a separate form and in duplicate. The original copy shall be given to the customer and the duplicate retained by the licensee. The acknowledgment shall be in substantially the following form:

ACKNOWLEDGMENT

THRIFT CERTIFICATES, OR SIMILAR EVIDENCES OF INDEBTEDNESS, ISSUED BY THIS CORPORATION:

- 1) ARE NOT INSURED OR GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) OR ANY OTHER FEDERAL AGENCY, AND
- 2) ARE NOT INSURED OR GUARANTEED BY THE STATE OF IOWA OR ANY OF ITS AGENCIES.
- 3) ARE INVESTMENTS AND SUBJECT TO INVESTMENT RISKS, INCLUDING THE POSSIBLE LOSS OF THE PRINCIPAL AMOUNT INVESTED.

You are entitled to a copy of the firm’s Disclosure Document and a copy of the firm’s most current audited financial statements.

Your signature(s) below indicate(s) you have read and received a copy of this document.

Date: _____
 Signature: _____
 Signature: _____
 Signature: _____
 Signature: _____

16.11(2) Disclosure. A licensee shall, before issuing thrift certificates or similar evidences of indebtedness that are not insured by a federal deposit insurance agency, have available for distribution a disclosure document. The disclosure document and any changes to the disclosure document shall be approved by the superintendent. The disclosure document shall contain all material facts necessary to make an informed investment decision with respect to the purchase of a thrift certificate or similar evidence of indebtedness. The disclosure document will provide, at a minimum, the following:

- a. A synopsis of the licensee’s primary business.
- b. A synopsis of management’s experience and expertise.
- c. A statement that thrift certificates have substantial restrictions on their transferability.

d. A statement that thrift certificates or similar evidences of indebtedness are not registered under the Iowa Securities Act nor are they registered with the Securities and Exchange Commission.

e. A statement that thrift certificates or similar evidences of indebtedness may be sold only to residents of the state of Iowa.

f. A statement regarding the licensee's policy regarding early redemption and penalties, if any, for early redemption.

g. A statement that thrift certificates or similar evidences of indebtedness are unsecured and purchasers rank as general creditors of the company and have rights prior to subordinated debt, debentures, capital notes and stockholders of the company.

h. Audited financial statements setting forth in comparative form corresponding figures for the previous two fiscal or calendar year ends.

This rule is intended to implement Iowa Code section 536A.22.

187—16.12(536A) Real estate loans. A licensee may, subject to Iowa Code chapter 536A and these rules, extend credit secured by real estate; or discount, purchase, or finance vendors' or vendees' interest in real estate contracts.

16.12(1) If the licensee issues thrift certificates or similar evidences of indebtedness that are not insured by a federal deposit insurance agency, the following documentation shall be obtained and retained for the aforementioned loans or contracts secured by real estate. These documentation requirements do not apply to loans in which a lien or an interest in real estate is taken as additional collateral through an abundance of caution. The required documentation is as follows:

a. Loan application or similar document disclosing the name of the applicant(s), the purpose of the loan, and the proposed security.

b. A signed and dated financial statement from the borrower(s).

c. Credit report detailing the borrower's history of repaying debt.

d. Written verification that the licensee's interest in the security is properly insured.

e. Legal opinion or similar assurance affirming the validity of the licensee's lien or claim on the security.

f. Signed and dated appraisal, completed by a qualified person after inspecting the property, which indicates the market value of the property.

g. Legal documents including the note, security agreement, and mortgage or similar instrument constituting a lien or claim upon real estate.

h. Copies of all documents required to be disclosed to the borrower pursuant to state or federal laws.

16.12(2) Reserved.

This rule is intended to implement Iowa Code sections 536A.20 and 536A.22.

187—16.13(17A,536A) Size of bond. An applicant for an industrial loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536A.7A as amended by 2009 Iowa Acts, Senate File 355, section 44. For applicants or licensees who do not make, process, or underwrite any residential mortgage loans, as defined by 2009 Iowa Acts, Senate File 355, section 3, subsection 13, the bond shall be in the amount of \$25,000. For applicants or licensees who make, arrange, broker, process, or underwrite residential mortgage loans, as defined by 2009 Iowa Acts, Senate File 355, section 3, subsection 13, the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

<u>Loans</u>	<u>Bond Amount</u>
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

This rule is intended to implement Iowa Code section 536A.7A as amended by 2009 Iowa Acts, Senate File 355, section 44.
[ARC 8237B, IAB 10/21/09, effective 11/25/09]

187—16.14(536A) Loan record. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.15(536A) Exceptions. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.16(536A) Insurance premium refunds. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.17(536A) Single premium insurance refund. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.18(536A) Property insurance refunds. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.19(536A) Refund exception. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.20(536A) Fees. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.21(536A) Appraisal fees. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.22(536A) Rescinded, effective 12/22/76.

187—16.23(536A) Real estate loan charges. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.24(536A) Prepayment. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.25(536A) Restrictions. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.26(536A) Penalty. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.27(536A) Real estate loan reporting and disclosure. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.28(536A) Thrift certificates. Rescinded IAB 10/9/96, effective 11/13/96.

187—16.29(536A) Disclosure for subordinated debt. Rescinded IAB 8/17/94, effective 9/21/94.

187—16.30(536A) Real estate loans. Rescinded IAB 10/9/96, effective 11/13/96.

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