

CHAPTER 16
INDUSTRIAL LOANS

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

Chapter exempt from chapter rescission pursuant to Iowa Code section 17A.7

187—16.1(17A,536A) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 536A shall apply. In addition, unless the context otherwise requires:

“Industrial loan” means a loan made by a licensee acting under the terms of the Iowa industrial loan law.

“Industrial loan business” means the business of operating an “industrial loan company” as defined in Iowa Code section 536A.2.

“Nationwide multistate licensing system” or *“NMLS”* means the same as “nationwide mortgage licensing system and registry” as defined in Iowa Code section 535D.3.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.2(17A,536A) Utilization of NMLS.

16.2(1) All application and licensing information shall be submitted through NMLS, including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events.

16.2(2) The applicant or licensee shall pay any fees required by NMLS, including but not limited to the following: initial set-up fee and annual processing fees, background check fees, credit background check fees, and a loan sponsorship transfer fee.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.3(17A,536A) Application for license.

16.3(1) An application for a license to engage in the business of operating an industrial loan company in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through NMLS. The superintendent may consider an application withdrawn if it does not contain all of the required information and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

16.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation (FBI).

16.3(3) The applicant must submit the application fee and the initial license fee specified in Iowa Code section 536A.7(2). The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

16.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent in writing within ten days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

16.3(5) 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. For an applicant or a licensee who does not make, arrange, broker, process, or underwrite any residential mortgage loans as defined in Iowa Code section 535D.3(13), the bond shall be in the amount of \$25,000. For an applicant or a licensee who makes, brokers, processes, or underwrites residential mortgage loans as defined in Iowa Code section 535D.3(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 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

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.4(17A,536A) Grounds for approval or denial.

16.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code sections 536A.10 and 536A.11.

16.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly within the purposes of Iowa Code chapter 536A and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.5(17A,536A) Renewal of license.

16.5(1) A licensee must renew a license before the expiration date of the license to remain authorized to make industrial loans. A license expires on the next December 31 after the license is issued, but a license granted on or after November 1 but before January 1 does not expire until December 31 of the following year.

16.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, including any material change to information contained in the original application, through NMLS by December 1 of the year of expiration.

16.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

16.5(4) The superintendent may reject for processing a renewal application submitted after December 31 or treat such an application as an application for a new license.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.6(17A,536A) Changes in the licensee's name, location, or control.

16.6(1) A licensee wishing to change the name or location of an industrial loan business shall notify the superintendent through NMLS at least 30 days prior to the effective date of the change and submit the appropriate fee. The notice shall include proof that the licensee has either obtained a new bond or amended the existing bond to reflect the new name or location.

16.6(2) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall submit an application for certificate of approval of the proposed change of control to the superintendent, on the form provided and with the information requested, through NMLS at least 60 days before the proposed change will take effect. The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the FBI. The superintendent shall approve or deny

the request in accordance with the provisions of Iowa Code sections 536A.10 and 536A.11 and rule 187—16.4(17A,536A).

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.7(17A,536A) Notice of significant events. A licensee shall notify the administrator in writing within ten days of the occurrence of any of the following events:

16.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection.

16.7(2) A prosecuting authority files criminal charges against the licensee or any of a licensee's officers, directors, principal stockholders, or affiliates.

16.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

16.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce any consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.8(17A,536A) Administrative fees.

16.8(1) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide a response to a formal order, an examination, or a complaint inquiry. If the person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

16.8(2) *NMLS system processing fees.* The applicant or licensee shall pay any fee required by NMLS or attributed to the licensee's record in NMLS pursuant to rule 187—16.2(17A,536A).

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.9(17A,536A) Licensee records.

16.9(1) *General records requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and produce books and records for the superintendent upon request.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders the licensee's license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

16.9(2) *Required records.* A licensee shall keep, at the licensee's principal place of business, a loan register, account ledgers, an account ledger control, a loan file, an index, and a disbursement voucher.

16.9(3) *Loan register.* The loan register shall be kept chronologically in the order the loans closed and include the following information for every loan that is made: the account number, the date of the transaction, the name of the borrower, and the amount financed.

16.9(4) *Account ledger.*

a. An individual account ledger shall be kept for each account and 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, including maturity date, 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, nature of security, type and cost of each credit insurance policy and any other insurance policy with each premium stated separately; and name of each endorser, comaker or surety.

b. All payments shall be posted on the account ledger as of the date received. Corrections to the transaction history in the account ledger shall be made by corrective entry and not by erasure. The entries on the account ledger shall correspond with the receipts given to the borrower.

c. If payment is made in any way other than in the ordinary course of business, the method of payment shall be so designated on the account ledger. When a death claim is filed, the exact date of death is to be recorded on the account ledger.

d. The account ledger for an interest-bearing loan shall show the amount of the loan if different from the amount financed, the amount and date of each payment received, the allocation of the payment to principal and interest, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the account ledger 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 for a precomputed loan shall show the actual amount of the loan, excluding the precomputed interest; the amount of the precomputed interest and the face amount of the note, including interest; the amount and date of each payment applied to the note; the unpaid balance of the note after application of such payment; and the type and amount of any additional charges collected or assessed. If a deferment charge is collected in whole or in part, the account ledger shall indicate any uncollected portion of the deferment charge, the particular installment deferred, the number of times deferred, and the date of the final installment.

f. When any loan is prepaid in full, either by cash or renewal, the account ledger must show the date of prepayment, the amount paid to discharge the loan, the amount of the interest rebate, and any deduction from the rebate for previously earned but uncollected charges, and refunds of the unearned premiums of each credit insurance policy or other insurance policy. Each insurance refund shall be separately recorded on the account ledger.

g. Account ledgers relating to each type of business operation must be filed in separate groups. Paid-in-full or renewed account ledgers must also be filed in a similar manner and be retained as a separate group from one examination to the next. After the examination, these account ledgers may be filed in a permanent file.

16.9(5) *Account ledger control.* A record showing the total number of accounts and amount receivable for each type of business conducted shall be maintained in the licensed office and posted either daily or weekly.

16.9(6) *Loan file.* A separate file shall be maintained for each borrower. Such file shall contain the promissory note, security agreement, wage assignment, and all other evidence of indebtedness or security pertaining to the loan except when the promissory note is kept in a separate promissory note file or when said papers are in custody of a court or an agent for collection or are hypothecated. When a borrower is also a comaker, guarantor, or endorser on another loan, the file of such borrower shall be cross-referenced to the other unless such cross-referencing is included on the alphabetical record required by subrule 16.9(7) or the individual account ledger required by subrule 16.9(4). All instruments taken in connection with a loan and signed by a borrower must bear the loan number.

16.9(7) *Index.* An alphabetical index shall be maintained and show the name of each borrower, endorser, comaker, or surety that is currently indebted to the licensee, together with sufficient information to locate the account ledger.

16.9(8) *Disbursement voucher.* Licensees shall use, in conjunction with each loan, a disbursement voucher or equivalent document showing a detailed itemization of the distribution of the loan proceeds.

16.9(9) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

16.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the industrial loan business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the industrial loan business.

d. All correspondence and other records relating to the maintenance of any bond required by Iowa Code chapter 536A.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning industrial loan services directed at Iowa residents, including advertisements and solicitations on the internet or by other electronic means, in the format in which the advertisements and solicitations were published or distributed. An advertisement shall clearly show the licensee's unique NMLS identification number.

16.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any "identification information" as defined in Iowa Code section 715A.8(1) "a." The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.10(17A,536A) Complaints and investigations.

16.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate or examine a licensee pursuant to Iowa Code section 536.10, including investigating complaints about, or alleged violations by, any licensee.

16.10(2) A complaint or alleged violation means:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.11(17A,536A) Disciplinary action.

16.11(1) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 536A.18(2) when the superintendent makes any of the findings in Iowa Code section 536A.18(1) or when the superintendent finds any of the following:

a. The licensee has abandoned the licensee's place of business for 60 or more days.

b. The licensee fails to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.

c. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to engage in the business of making loans under the other state's or jurisdiction's law.

16.11(2) The superintendent shall not refund the license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.12(17A,536A) Other requirements. Licensees must file with the superintendent an annual report as required by Iowa Code section 536.11(2), and the superintendent may assess a late fee of \$10 for each

day a licensee's annual report is delinquent. The information contained in the annual report is confidential, and the superintendent may publish the information only in aggregate form.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

187—16.13(17A,536A) Restrictions on making industrial loans. The following restrictions apply to making industrial loans.

16.13(1) *Jurisdiction.* A licensee has the authority to make and complete loans by mail, or by comparable electronic means, from the lender's licensed office.

16.13(2) *Default charge.* Default charges are not to be collected from a borrower if payment is made by a credit accident and health insurance claim.

16.13(3) *Branch locations.* Licensees cannot establish branch locations outside of the United States.

[ARC 0588D, IAB 9/16/26, effective 10/21/26]

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