

# House File 2484

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## AN ACT

RELATING TO THE REGULATION OF FINANCIAL AND REAL PROPERTY INSTITUTIONS AND ASSETS INCLUDING BANKS, CREDIT UNIONS, REAL PROPERTY LOAN LENDERS, AND REAL PROPERTY FINANCIAL LIABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 10

## DIVISION I

### DIVISION OF BANKING

Section 1. Section 8A.412, subsection 19, Code Supplement 2003, is amended to read as follows:

19. The superintendent ~~and the deputy superintendent~~ of the banking division of the department of commerce, all members of the state banking ~~board~~ council, and all employees of the banking division.

Sec. 2. Section 524.201, subsection 1, Code 2003, is amended to read as follows:

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 ~~or in the regulation or examination of banks.~~

Sec. 3. Section 524.203, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

524.203 SUPERINTENDENT == VACANCY.

If the office of superintendent shall become vacant, the governor may appoint an acting superintendent to complete the unexpired term until an appointment is made as provided in section 524.201.

Sec. 4. Section 524.204, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

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.

Sec. 5. Section 524.205, Code 2003, is amended to read as follows:

524.205 STATE BANKING ~~BOARD~~ COUNCIL.

1. The state banking ~~board~~ council shall ~~be composed~~ consist of the superintendent, who shall be an ex officio ~~nonvoting~~ member and chairperson, and six other members, appointed by the governor, who shall be ~~chosen~~ appointed, ~~where practical,~~ from various ~~sections~~ parts of the state.

Provided, however, that in no event shall more than five members of such ~~board~~ council be engaged in the business of banking in any executive capacity. ~~In case of a vacancy in the state banking board, other than one resulting from a vacancy in the office of the superintendent, the governor shall appoint a new member to fill such vacancy for the unexpired term.~~

2. The ~~regular term~~ terms of office of ~~each member for~~ members of the state banking council, other than the superintendent, shall be ~~contemporaneous with the regular term of office of the superintendent as defined in subsection 2 of section 524.201, and each such member shall hold office for such term and until the member's successor shall have been appointed 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 ~~board~~ 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 ~~board~~ council may also be eligible to receive compensation as provided in section 7E.6.

4. The state banking ~~board~~ council shall act ~~with the~~ superintendent in an advisory capacity concerning ~~all~~ submitted to the council by the superintendent matters pertaining to

3 6 the conduct of the administration of the provisions of this  
3 7 chapter ~~and shall perform such other duties as are~~  
3 8 ~~specifically provided for by the laws of this state.~~

3 9 5. The state banking ~~board council~~ shall meet at least  
3 10 ~~once each month calendar quarter~~ on such date and at such  
3 11 place as the ~~state banking board council~~ may ~~designate decide,~~  
3 12 and shall meet at such other times as the ~~board~~ may ~~deem be~~  
3 13 ~~deemed necessary, or when called by the chairperson of the~~  
3 14 ~~board, or any two members thereof by the superintendent or a~~  
3 15 ~~majority of the council members.~~

3 16 Sec. 6. Section 524.207, subsection 1, Code Supplement  
3 17 2003, is amended to read as follows:

3 18 1. All expenses required in the discharge of the duties  
3 19 and responsibilities imposed upon the banking division of the  
3 20 department of commerce, the superintendent, and the state  
3 21 banking ~~board council~~ by the laws of this state shall be paid  
3 22 from fees provided by the laws of this state and appropriated  
3 23 by the general assembly from the general fund of the state.  
3 24 All of these fees are payable to the superintendent. The  
3 25 superintendent shall pay all the fees and other moneys  
3 26 received by the superintendent to the treasurer of state  
3 27 within the time required by section 12.10 and the fees and  
3 28 other moneys shall be deposited into the general fund of the  
3 29 state. The superintendent may keep on hand with the treasurer  
3 30 of state funds in excess of the current needs of the division  
3 31 to the extent ~~approved recommended~~ by the state banking ~~board~~  
3 32 ~~council.~~

3 33 Sec. 7. Section 524.208, Code 2003, is amended to read as  
3 34 follows:

3 35 524.208 ~~ASSISTANTS, EXAMINERS, AND OTHER EMPLOYEES.~~

4 1 The superintendent may appoint ~~assistants, examiners,~~ and  
4 2 other employees as the superintendent deems necessary to the  
4 3 proper discharge of the duties imposed upon the superintendent  
4 4 by the laws of this state. Pay plans shall be established for  
4 5 employees, other than clerical, who examine the accounts and  
4 6 affairs of state banks and who examine the accounts and  
4 7 affairs of other persons, subject to supervision and  
4 8 regulation by the superintendent, which are substantially  
4 9 equivalent to those paid by the ~~Federal Deposit Insurance~~  
4 10 ~~Corporation federal deposit insurance corporation~~ and other  
4 11 federal supervisory agencies in this area of the United  
4 12 States.

4 13 Sec. 8. Section 524.209, Code Supplement 2003, is amended  
4 14 to read as follows:

4 15 524.209 EXPENSES.

4 16 The superintendent, ~~deputy superintendent, assistants,~~  
4 17 ~~examiners,~~ and other employees of the banking division shall  
4 18 be entitled to receive reimbursement for expenses incurred in  
4 19 the performance of their duties. The superintendent, and when  
4 20 specifically authorized by the superintendent, ~~the deputy~~  
4 21 ~~superintendent, assistants, examiners~~ and other employees of  
4 22 the banking division, shall be entitled to receive  
4 23 reimbursement for expenses incurred while attending  
4 24 conventions, meetings, conferences, schools, or seminars  
4 25 relating to the performance of their duties, and such expenses  
4 26 shall be paid by the treasurer of state on warrants drawn by  
4 27 the director of the department of administrative services.

4 28 Sec. 9. Section 524.210, Code 2003, is amended to read as  
4 29 follows:

4 30 524.210 INSURANCE AND SURETY BONDS.

4 31 The superintendent shall acquire good and sufficient bond  
4 32 in a company authorized to do business in this state insuring  
4 33 the faithful performance of ~~the deputy superintendent,~~  
4 34 ~~assistants, examiners,~~ and all other employees of the banking  
4 35 division and insuring against any liability which may accrue  
5 1 in the case of the loss of any property of a state bank, of a  
5 2 customer of a state bank or of any other person, in the course  
5 3 of any examination, investigation, or other function required  
5 4 or allowed by the laws of this state. The superintendent  
5 5 shall be bonded in accordance with the provisions of chapter  
5 6 64.

5 7 Sec. 10. Section 524.211, subsections 1, 2, 3, 4, 5, and  
5 8 7, Code 2003, are amended to read as follows:

5 9 1. The superintendent, ~~deputy superintendent, an assistant~~  
5 10 ~~to the superintendent, a bank examination analyst,~~ general  
5 11 counsel, ~~or an examiner examiners, and other employees~~  
5 12 assigned to the bank bureau of the banking division ~~is are~~  
5 13 prohibited from obtaining a loan of money or property from a  
5 14 state-chartered bank or any person or entity affiliated with a  
5 15 state-chartered bank.

5 16 2. The superintendent, ~~deputy superintendent, finance~~

~~5 17 company bureau chief, general counsel, and all examiners, and~~  
~~5 18 other employees~~ assigned to the finance ~~company bureau of the~~  
~~5 19 banking division~~ are prohibited from obtaining a loan of money  
5 20 or property pursuant to a person or entity licensed pursuant to  
5 21 chapter 533A, 533D, 536, or 536A, or a person or entity  
5 22 affiliated with such licensee.

~~5 23 3. The superintendent, deputy superintendent, an assistant~~  
~~5 24 to the superintendent, a bank examination analyst, finance~~  
~~5 25 company bureau chief, general counsel, or an examiner~~  
5 26 examiners, and other employees of the banking division, who  
5 27 ~~has~~ have credit relations with a person or entity licensed or  
5 28 registered pursuant to chapter 535B or 536C, ~~is~~ are prohibited  
5 29 from participating in decisions, oversight, and official  
5 30 review of matters concerning the regulation of the licensee or  
5 31 registrant.

~~5 32 4. An assistant to the superintendent, a bank examination~~  
~~5 33 analyst, or an examiner~~ Examiners and other employees assigned  
5 34 to the bank bureau of the banking division who ~~has~~ have credit  
5 35 relations with a person or entity licensed pursuant to chapter  
6 1 533A, 533D, 536, or 536A, or with a person or entity  
6 2 affiliated with such licensee, ~~is~~ are prohibited from  
6 3 participating in decisions, oversight, and official review of  
6 4 matters concerning the regulation of the licensee.

6 5 5. An employee of the banking division, other than the  
6 6 superintendent or a member of the state banking board council,  
6 7 shall not perform any services for, and shall not be a  
6 8 shareholder, member, partner, owner, director, officer, or  
6 9 employee of, any enterprise, person, or affiliate subject to  
6 10 the regulatory purview of the banking division.

~~6 11 7. The superintendent, deputy superintendent, or any~~  
~~6 12 assistant or examiner~~ examiners, or other employees who ~~is~~ are  
6 13 convicted of a felony while holding such position shall be  
6 14 immediately discharged from employment and shall be forever  
6 15 disqualified from holding any position in the banking  
6 16 division.

6 17 Sec. 11. Section 524.212, Code Supplement 2003, is amended  
6 18 to read as follows:

6 19 524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY  
6 20 INFORMATION.

~~6 21 The superintendent, deputy superintendent, assistant to the~~  
~~6 22 superintendent, examiner~~ members of the state banking council,  
6 23 general counsel, examiners, or other employee employees of the  
6 24 banking division shall not disclose, in any manner, to any  
6 25 person other than the person examined and those regulatory  
6 26 agencies referred to in section 524.217, subsection 2, any  
6 27 information relating specifically to the supervision and  
6 28 regulation of any state bank, persons subject to the  
6 29 provisions of chapter 533A, 533C, 536, or 536A, any affiliate  
6 30 of any state bank, or an affiliate of a person subject to the  
6 31 provisions of chapter 533A, 533C, 536, or 536A, except when  
6 32 ordered to do so by a court of competent jurisdiction and then  
6 33 only in those instances referred to in section 524.215,  
6 34 subsections 1, 2, 3, and 5.

6 35 Sec. 12. Section 524.214, subsection 1, Code 2003, is  
7 1 amended to read as follows:

7 2 1. The superintendent, ~~the deputy superintendent,~~ and upon  
7 3 the approval of the superintendent, any ~~assistant or examiner~~  
7 4 or other employees of the banking division shall have the  
7 5 power to subpoena witnesses, to compel their attendance, to  
7 6 administer an oath, to examine any person under oath and to  
7 7 require the production of any relevant books or papers. Such  
7 8 examination may be conducted on any subject relating to the  
7 9 duties imposed upon, or powers vested in, the superintendent  
7 10 under the provisions of this chapter.

7 11 Sec. 13. Section 524.215, unnumbered paragraph 2, Code  
7 12 2003, is amended to read as follows:

~~7 13 The superintendent, deputy superintendent, assistants, or~~  
~~7 14 members of the state banking council, examiners, or other~~  
7 15 employees of the banking division shall not be subpoenaed in  
7 16 any cause or proceeding to give testimony concerning  
7 17 information relating specifically to the supervision and  
7 18 regulation of any state bank or other person by the  
7 19 superintendent pursuant to the laws of this state, and the  
7 20 records of the banking division which relate specifically to  
7 21 the supervision and regulation of any such state bank or other  
7 22 such person shall not be offered in evidence in any court or  
7 23 subject to subpoena by any party except, where relevant:

7 24 Sec. 14. Section 524.216, unnumbered paragraph 1, Code  
7 25 2003, is amended to read as follows:

7 26 The superintendent shall make a report in writing annually  
7 27 to the governor in the manner and within the time required by

7 28 chapter 7A. ~~A copy of the report shall be furnished by the~~  
7 29 ~~superintendent to each state bank.~~

7 30 Sec. 15. Section 524.217, subsection 1, paragraph a, Code  
7 31 2003, is amended to read as follows:

7 32 a. Make or cause to be made an examination of every state  
7 33 bank and trust company whenever in the superintendent's  
7 34 judgment such examination is necessary or advisable, but in no  
7 35 event less frequently than once during each two-year period by  
8 1 either the banking division or the appropriate federal banking  
8 2 agency. During the course of each examination of a state bank  
8 3 or trust company, inquiry shall be made as to its financial  
8 4 condition, the security afforded to those to whom it is  
8 5 obligated, the policies of its management, whether the  
8 6 requirements of law have been complied with in the  
8 7 administration of its affairs, and such other matters as the  
8 8 superintendent may prescribe.

8 9 Sec. 16. Section 524.218, Code 2003, is amended to read as  
8 10 follows:

8 11 524.218 REGULATION AND EXAMINATION OF SERVICES.

8 12 A state bank ~~may~~ shall not cause to be performed, by  
8 13 contract or otherwise, any bank services, of a type referred  
8 14 to in section 524.804, for itself or any affiliate, whether on  
8 15 or off its premises, unless ~~assurances satisfactory to the~~  
8 16 ~~superintendent are furnished to the superintendent by both the~~  
8 17 ~~state bank and the person performing such services that the~~  
8 18 ~~performance thereof the person performing such services will~~  
8 19 be subject to supervision, regulation, and examination by the  
8 20 superintendent to the same extent as if such services were  
8 21 being performed by the state bank itself on its own premises.

8 22 Sec. 17. Section 524.219, Code 2003, is amended to read as  
8 23 follows:

8 24 524.219 FEES.

8 25 1. A state bank subject to examination, supervision, and  
8 26 regulation by the superintendent, shall pay to the  
8 27 superintendent fees, established by the ~~state banking board~~  
8 28 superintendent, based on the costs and expenses incurred in  
8 29 the discharge of the duties imposed upon the superintendent by  
8 30 this chapter. The fees shall include, but are not limited to,  
8 31 costs and expenses for salaries, expenses and travel for  
8 32 employees, office facilities, supplies, and equipment.

8 33 2. The fees for examination of any affiliate of a state  
8 34 bank as provided for in section 524.1105, and the examinations  
8 35 provided for in section 524.217, subsection 1, paragraphs "c"  
9 1 and "d", shall be established by the ~~state banking board~~  
9 2 superintendent, based on the time required for the examination  
9 3 and the administrative costs and expenses incurred in the  
9 4 discharge of the duties imposed upon the superintendent by  
9 5 this chapter. The fees shall include, but not be limited to,  
9 6 costs and expenses for salaries, expenses and travel for  
9 7 employees, office facilities, supplies, and equipment.

9 8 ~~Upon completion of each examination required or allowed by~~  
9 9 ~~this chapter, the examiner in charge of the examination shall~~  
9 10 ~~render a bill for the fees, in duplicate, and shall deliver~~  
9 11 ~~one copy of the bill to the state bank and one copy to the~~  
9 12 ~~superintendent.~~

9 13 3. Failure to pay the amount of the fees to the  
9 14 superintendent within ten days after the date of billing shall  
9 15 subject the state bank or any affiliate of a state bank to an  
9 16 additional charge equal to five percent of the amount of the  
9 17 fees for each day the payment is delinquent.

9 18 Sec. 18. Section 524.310, subsection 1, Code 2003, is  
9 19 amended to read as follows:

9 20 1. The name of a state bank originally incorporated after  
9 21 the effective date of this chapter shall include the word  
9 22 "bank" and may include the word "state" or "trust" in its  
9 23 name. A state bank using the word "trust" in its name must be  
9 24 authorized under this chapter to act in a fiduciary capacity.  
9 25 A national bank or federal savings bank shall not use the word  
9 26 "state" in its legally chartered name.

9 27 Sec. 19. Section 524.405, subsection 1, unnumbered  
9 28 paragraph 1, Code 2003, is amended to read as follows:

9 29 A state bank, ~~with the approval of the superintendent,~~ may  
9 30 increase its capital structure or effect an allocation of  
9 31 amounts within its capital structure, by the use of any of the  
9 32 following methods:

9 33 Sec. 20. NEW SECTION. 524.607A ACTION WITHOUT MEETING.

9 34 1. Unless the articles of incorporation or bylaws provide  
9 35 otherwise, action required or permitted to be taken under this  
10 1 chapter at a board of directors' meeting may be taken without  
10 2 a meeting if the action is consented to by all members of the  
10 3 board. The action must be evidenced by one or more written

10 4 consents describing the action taken, signed by each director,  
10 5 and included in the minutes or filed with the corporate  
10 6 records reflecting the action taken.

10 7 2. Action taken under this section is effective when the  
10 8 last director signs the consent, unless the consent specifies  
10 9 a different effective date.

10 10 3. A written consent signed under this section has the  
10 11 effect of a meeting vote and may be described as such in any  
10 12 document.

10 13 Sec. 21. Section 524.610, unnumbered paragraph 1, Code  
10 14 2003, is amended to read as follows:

10 15 The shareholders of a state bank shall fix the reasonable  
10 16 compensation of directors for their services as members of the  
10 17 board of directors. Subject to ~~the approval of the~~  
~~10 18 superintendent and approval by the shareholders at an annual~~  
10 19 or special meeting called for that purpose, the shareholders  
10 20 of a state bank may adopt a pension or profit sharing plan, or  
10 21 both, or other plan of deferred compensation for directors, to  
10 22 which a state bank may contribute.

10 23 Sec. 22. Section 524.703, unnumbered paragraph 2, Code  
10 24 2003, is amended to read as follows:

10 25 Subject to ~~the approval of the superintendent, and approval~~  
10 26 by the shareholders at an annual or special meeting called for  
10 27 the purpose, the board of directors of a state bank may adopt  
10 28 a pension or profit-sharing plan, or both, or other plan of  
10 29 deferred compensation, for both officers and employees, to  
10 30 which the state bank may contribute.

10 31 Sec. 23. Section 524.802, subsection 5, Code 2003, is  
10 32 amended to read as follows:

10 33 5. Act as agent for a depository institution affiliate ~~to~~  
~~10 34 the same extent that a national bank can act as an agent for a~~  
10 35 depository institution under the provisions of section 18 of  
~~11 1 the Federal Deposit Insurance Act, 12 U.S.C. } 1828.~~

11 2 Sec. 24. Section 524.903, subsections 2 and 3, Code 2003,  
11 3 are amended to read as follows:

11 4 2. A state bank shall not accept such drafts in an amount  
11 5 which exceeds at any time in the aggregate for all drawers  
11 6 thirty percent of the state bank's aggregate capital. ~~The~~  
~~11 7 superintendent may authorize a state bank to accept drafts in~~  
~~11 8 an amount not exceeding at any time in the aggregate for all~~  
~~11 9 drawers sixty percent of the state bank's aggregate capital,~~  
~~11 10 but the aggregate of acceptance growing out of domestic~~  
~~11 11 transactions shall in no event exceed thirty percent of~~  
~~11 12 aggregate capital.~~

11 13 3. A state bank, ~~with the prior approval of the~~  
~~11 14 superintendent,~~ may accept drafts, having not more than three  
11 15 months after sight to run, drawn upon it by banks or bankers  
11 16 in foreign countries, or in dependencies or insular  
11 17 possessions of the United States, for the purpose of  
11 18 furnishing dollar exchange as required by the usages of trade  
11 19 where the drafts are drawn in an aggregate amount which shall  
11 20 not at any time exceed for all such acceptance on behalf of a  
11 21 single bank or banker seven and one-half percent of the state  
11 22 bank's aggregate capital, and for all such acceptances, thirty  
11 23 percent of the state bank's aggregate capital.

11 24 Sec. 25. Section 524.904, subsection 7, paragraph a, Code  
11 25 2003, is amended to read as follows:

11 26 a. Additional funds advanced for taxes or for insurance if  
11 27 the advance is for the protection of the state bank, ~~and~~  
~~11 28 provided that such amounts receive the prior approval of the~~  
~~11 29 superintendent.~~

11 30 Sec. 26. Section 524.1201, subsection 3, Code 2003, is  
11 31 amended to read as follows:

11 32 3. Notwithstanding any of the other provisions of this  
11 33 section, original loan documentation and trust recordkeeping  
11 34 functions may be located at an any authorized bank office or  
11 35 at any other location approved by the superintendent.

12 1 Sec. 27. Section 524.1303, subsection 3, Code 2003, is  
12 2 amended to read as follows:

12 3 3. Within thirty days after the application for  
12 4 dissolution involving a provision of acquisition of the state  
12 5 bank's assets and assumption of its liabilities by another  
12 6 state bank is accepted for processing, the dissolving bank  
12 7 shall publish ~~once each week for two consecutive weeks a~~  
~~12 8 notice of the proposed transaction. The notice shall be~~  
~~12 9 published~~ in a newspaper of general circulation published in  
12 10 the municipal corporation or unincorporated area in which the  
12 11 dissolving bank has its principal place of business, and in  
12 12 the municipal corporation or unincorporated area in which the  
12 13 acquiring state bank has its principal place of business, or  
12 14 if there is none, a newspaper of general circulation published

12 15 in the county or counties, or in a county adjoining the county  
12 16 or counties, in which the dissolving bank and the acquiring  
12 17 bank have their principal place of business. The notice shall  
12 18 be on forms provided by the superintendent, and proof of  
12 19 publication of the notice shall be delivered to the  
12 20 superintendent within fourteen days.

12 21 Sec. 28. Section 524.1402, subsection 4, Code 2003, is  
12 22 amended to read as follows:

12 23 4. If a proposed merger will result in a state bank,  
12 24 within thirty days after the application for merger is  
12 25 accepted for processing, the parties to the plan shall  
12 26 publish, ~~once each week for two consecutive weeks,~~ a notice of  
12 27 the proposed transaction. ~~The notices shall be published in a~~  
12 28 newspaper of general circulation published in the municipal  
12 29 corporation or unincorporated area in which each party to the  
12 30 plan has its principal place of business, or if there is none,  
12 31 in a newspaper of general circulation published in the county,  
12 32 or in a county adjoining the county, in which each party to  
12 33 the plan has its principal place of business. The notice  
12 34 shall be on forms prescribed by the superintendent and shall  
12 35 set forth the names of the parties to the plan and the  
13 1 resulting state bank, the location and post office address of  
13 2 the principal place of business of the resulting state bank  
13 3 and of each office to be maintained by the resulting state  
13 4 bank, and the purpose or purposes of the resulting state bank.  
13 5 Proof of publication of the notice shall be delivered to the  
13 6 superintendent within fourteen days.

13 7 Sec. 29. Section 524.1412, unnumbered paragraph 1, Code  
13 8 2003, is amended to read as follows:

13 9 Within thirty days after the application for conversion has  
13 10 been accepted for processing, the national bank or federal  
13 11 savings association shall publish a notice of the delivery of  
13 12 the articles of conversion to the superintendent ~~once each~~  
13 13 ~~week for two successive weeks~~ in a newspaper of general  
13 14 circulation published in the municipal corporation or  
13 15 unincorporated area in which the national bank or federal  
13 16 savings association has its principal place of business, or if  
13 17 there is none, a newspaper of general circulation published in  
13 18 the county, or in a county adjoining the county, in which the  
13 19 national bank or federal savings association has its principal  
13 20 place of business. Proof of publication of the notice shall  
13 21 be delivered to the superintendent within fourteen days. The  
13 22 notice shall set forth all of the following:

13 23 Sec. 30. Section 524.1416, subsection 2, Code 2003, is  
13 24 amended to read as follows:

13 25 2. A state bank which converts into a national bank or  
13 26 federal savings association shall notify the superintendent of  
13 27 the proposed conversion, provide such evidence of the adoption  
13 28 of the plan as the superintendent may request, notify the  
13 29 superintendent of any abandonment or disapproval of the plan,  
13 30 file with the superintendent and with the secretary of state a  
13 31 certificate of the approval of the conversion by the  
13 32 comptroller of the currency of the United States or director  
13 33 of the office of thrift supervision, as applicable, and the  
13 34 date upon which such conversion is to become effective. A  
13 35 state bank that converts into a national bank or federal  
14 1 savings association shall comply with the provisions of  
14 2 section 524.310, subsection 1.

14 3 Sec. 31. Section 524.1611, subsection 1, Code 2003, is  
14 4 amended to read as follows:

14 5 1. Any person violating the provisions of ~~subsection 1~~ of  
14 6 section 524.211, subsection 1, shall be guilty of a fraudulent  
14 7 practice, and shall be subject to a further fine of a sum  
14 8 equal to the amount of the value of the property given or  
14 9 received or the money so loaned or borrowed. ~~The deputy~~  
14 10 ~~superintendent, an assistant or examiner~~ An employee of the  
14 11 division of banking convicted of a violation of such  
14 12 subsection shall be immediately discharged from employment and  
14 13 shall be forever disqualified from holding any position in the  
14 14 banking division.

14 15 Sec. 32. Section 546.3, Code 2003, is amended to read as  
14 16 follows:

14 17 546.3 BANKING DIVISION.

14 18 The banking division shall regulate and supervise banks  
14 19 under chapter 524, regulated loan companies under chapter 536,  
14 20 and industrial loan companies under chapter 536A, and shall  
14 21 perform other duties assigned to the division by law. The  
14 22 division is headed by the superintendent of banking who is  
14 23 appointed pursuant to section 524.201. The state banking  
14 24 board council shall perform duties render advice within the  
14 25 division as prescribed by law when requested by the

14 26 superintendent.

14 27 Sec. 33. STATE BANKING COUNCIL == INITIAL FOUR=YEAR TERMS.  
14 28 The governor shall appoint members to the state banking  
14 29 council for terms beginning on May 1, 2005, as follows: One  
14 30 member shall be appointed for a one-year term, one member  
14 31 shall be appointed for a two-year term, two members shall be  
14 32 appointed for three-year terms, and two members shall be  
14 33 appointed for four-year terms.

14 34 Sec. 34. Section 68B.35, Code Supplement 2003, and  
14 35 sections 536.13, 536.23, and 536.28, Code 2003, are amended by  
15 1 striking from the sections the words "state banking board" and  
15 2 "banking board" and "board" when referring to the state  
15 3 banking board and inserting in lieu thereof the words "state  
15 4 banking council".

15 5 Sec. 35. CODE EDITOR'S DIRECTIVE. The Code editor shall  
15 6 correct any references to the state banking council as the  
15 7 successor to the state banking board, including grammatical  
15 8 constructions, anywhere else in the Iowa Code, in any bills  
15 9 awaiting codification, and in any bills enacted by the  
15 10 Eightieth General Assembly, 2004 Regular Session.

15 11 DIVISION II  
15 12 CREDIT UNIONS

15 13 Sec. 36. Section 533.2, Code 2003, is amended to read as  
15 14 follows:

15 15 533.2 AMENDMENTS.

15 16 1. The articles Articles of incorporation or the bylaws  
15 17 may be amended by a favorable vote of a majority of the  
15 18 members present at a meeting, if that number constitutes a  
15 19 quorum and if the proposed amendment was contained in the  
15 20 notice of the meeting.

15 21 2. Bylaws may also be amended by a any of the following  
15 22 methods:

15 23 a. The favorable vote of a majority of the members of the  
15 24 board, or by present at a meeting, if that number constitutes  
15 25 a quorum and if the proposed amendment was contained in the  
15 26 notice of the meeting.

15 27 b. The favorable vote of a majority of the members of the  
15 28 board.

15 29 c. By a majority vote of members voting by mailed or  
15 30 electronic ballot, according to procedures specified by rule  
15 31 of the superintendent requiring at least twenty days' notice  
15 32 to all members, mailed ballots ensuring the confidentiality of  
15 33 voters, announcement to members of the results of the vote,  
15 34 and preservation of the ballots for a reasonable period of  
15 35 time according to procedures specified by rule of the  
16 1 superintendent, requiring at least twenty days' notice to all  
16 2 members. All amendments must be approved by the  
16 3 superintendent before they become effective. An announcement  
16 4 shall be made to members of the results of the vote. Ballots  
16 5 shall be preserved for a reasonable period of time following  
16 6 the vote.

16 7 d. A combination of procedures as specified in paragraphs  
16 8 "a" and "c", whereby members are allowed to vote either in  
16 9 person at a meeting or by mailed or electronic ballot,  
16 10 according to procedures specified by rule of the  
16 11 superintendent. If the proposed amendment receives a  
16 12 favorable majority of the total votes cast in person and by  
16 13 mailed ballot, the bylaws shall be amended.

16 14 Sec. 37. Section 533.4, subsection 5, Code 2003, is  
16 15 amended by adding the following new paragraph:  
16 16 NEW PARAGRAPH. j. Any permissible investment for federal  
16 17 credit unions, provided that this paragraph shall not permit a  
16 18 credit union to invest in a credit union service organization  
16 19 except as provided in paragraph "f".

16 20 Sec. 38. Section 533.4, Code 2003, is amended by adding  
16 21 the following new subsection:

16 22 NEW SUBSECTION. 28. Set off a member's accounts against  
16 23 any of the member's debts or liabilities owed the state credit  
16 24 union pursuant to an agreement entered into between the member  
16 25 and the credit union. The credit union shall also have a lien  
16 26 on the shares and deposits of a member for any sum due the  
16 27 credit union from the member or for any loan endorsed by the  
16 28 member.

16 29 Sec. 39. Section 533.6, subsection 2, Code 2003, is  
16 30 amended to read as follows:

16 31 2. The superintendent may make or cause to be made an  
16 32 examination of each credit union whenever the superintendent  
16 33 believes such examination is necessary or advisable, but in no  
16 34 event less frequently than once during each ~~eighteen-month~~  
16 35 ~~twenty-four-month~~ period. A credit union designated as  
17 1 servicing predominantly low-income members shall be reviewed

17 2 during each examination to ensure that such credit union is  
17 3 continuing to meet the standards established by rule of the  
17 4 superintendent. Each credit union and all of its officers and  
17 5 agents shall give to the representatives of the superintendent  
17 6 free access to all books, papers, securities, records, and  
17 7 other sources of information under their control. A report of  
17 8 such examination shall be forwarded to the chairperson of each  
17 9 credit union within thirty days after the completion of the  
17 10 examination. Within thirty days of the receipt of this  
17 11 report, a meeting of the directors shall be called to consider  
17 12 matters contained in the report and the action taken shall be  
17 13 set forth in the minutes of the board. The superintendent may  
17 14 accept, in lieu of the examination of a credit union, an audit  
17 15 report conducted by a certified public accounting firm  
17 16 selected from a list of firms previously approved by the  
17 17 superintendent. The cost of the audit shall be paid by the  
17 18 credit union.

17 19 Sec. 40. Section 533.8, Code 2003, is amended to read as  
17 20 follows:

17 21 533.8 ELECTIONS.

17 22 1. At the organization meeting there shall be elected a  
17 23 board of directors of not less than nine members to hold  
17 24 office for such terms as the bylaws provide and until  
17 25 successors are elected and qualify.

17 26 2. At each annual meeting there shall be elected one  
17 27 member to fill each position vacated by reason of expiring  
17 28 terms or other causes.

17 29 3. Pursuant to rules adopted by the superintendent, state  
17 30 ~~credit unions may allow members to vote on the election of~~  
17 31 ~~directors via electronic means including, but not limited to,~~  
17 32 ~~the internet or telephone.~~

17 33 4. A record of the names and addresses of the directors,  
17 34 officers and committee persons shall be filed with the  
17 35 superintendent within ten days following each election.

18 1 5. A state credit union wishing to maintain a board of  
18 2 directors of less than nine members may apply to the  
18 3 superintendent for permission to reduce the required number of  
18 4 directors to no fewer than seven members. An application to  
18 5 reduce the required number of directors under this subsection  
18 6 must demonstrate both of the following:

18 7 a. The application is necessitated by a hardship or other  
18 8 special circumstance.

18 9 b. The lesser number of directors is in the best interest  
18 10 of the credit union and its members.

18 11 Sec. 41. Section 533.9, Code 2003, is amended to read as  
18 12 follows:

18 13 533.9 DIRECTORS AND OFFICERS.

18 14 1. Within five days following the organization meeting and  
18 15 each annual meeting, the directors shall elect from their own  
18 16 number a chairperson of the board, a vice chairperson, a  
18 17 secretary, and a chief financial officer whose title shall be  
18 18 designated by the board of directors.

18 19 2. The board shall appoint a credit committee of not less  
18 20 than three members, and an auditing committee of not less than  
18 21 three members, and may also appoint alternate members of the  
18 22 credit committee.

18 23 3. Only a member of the board of directors or a member of  
18 24 the credit union may be appointed to the credit committee or  
18 25 to the auditing committee.

18 26 4. The board may appoint an executive committee to act on  
18 27 its behalf when designated for that purpose.

18 28 5. ~~The duties and responsibilities of a director and of~~  
18 29 ~~the board of directors have general shall include, but are not~~  
18 30 ~~limited to, all of the following:~~

18 31 a. General management of the affairs of the state credit  
18 32 union including, but not limited to, the power to fix,

18 33 b. Setting the amount of the surety bond which that shall  
18 34 be required of all officers and employees handling money.

18 35 c. Periodic review of the original records of the state  
19 1 credit union, or comprehensive summaries prepared by the  
19 2 officers of the credit union, pertaining to loans, security  
19 3 interests, and investments.

19 4 d. Review of the adequacy of the state credit union's  
19 5 internal controls.

19 6 e. Periodic review of utilization of security measures.

19 7 f. Establishing education and training programs to ensure  
19 8 that the directors possess adequate knowledge to manage the  
19 9 affairs of the state credit union.

19 10 6. a. Directors of a state credit union shall discharge  
19 11 the duties of their position in good faith and with that  
19 12 diligence, care, and skill which ordinarily prudent persons



19 13 would exercise under similar circumstances in like positions.  
19 14 b. The directors have a continuing responsibility to  
19 15 assure themselves that the state credit union is being managed  
19 16 according to law and that the practices and policies adopted  
19 17 by the board are being implemented.

19 18 7. Unless the bylaws provide otherwise, the board of  
19 19 directors may permit any and all directors to participate in  
19 20 all except one meeting per year of the board of directors  
19 21 through the use of any means of communication by which all  
19 22 directors participating in the meeting may simultaneously hear  
19 23 each other and communicate during the meeting. A director  
19 24 participating in a meeting by this means is deemed to be  
19 25 present at the meeting.

19 26 8. a. A director, committee member, officer, or employee  
19 27 of a state credit union shall not directly or indirectly  
19 28 participate in either the deliberation upon or the  
19 29 determination of any matter in which the director, committee  
19 30 member, officer, or employee has a direct or indirect  
19 31 interest.

19 32 b. For the purposes of this subsection, an interest may  
19 33 include, but is not limited to, a pecuniary or familial  
19 34 interest.

19 35 Sec. 42. Section 533.12, subsection 1, Code 2003, is  
20 1 amended to read as follows:  
20 2 1. The capital of a credit union shall consist of the  
20 3 payments that have been made to it by the several members  
20 4 thereof on shares. ~~The credit union shall have a lien on the~~  
~~20 5 shares and deposits of a member for any sum due to the credit~~  
~~20 6 union from the member or for any loan endorsed by the member.~~  
20 7 A credit union may charge an entrance fee as may be provided  
20 8 by the bylaws.

20 9 Sec. 43. Section 533.19, Code 2003, is amended to read as  
20 10 follows:  
20 11 533.19 EXPULSION == WITHDRAWAL.  
20 12 1. The board of directors may expel any member who has  
20 13 failed to do either of the following:  
20 14 a. Carry out the member's obligations to the state credit  
20 15 union.  
20 16 b. Comply with the state credit union's bylaws or  
20 17 policies.

20 18 2. A member may be expelled by a majority vote of the  
20 19 board of directors at a regular or special meeting of the  
20 20 board.

20 21 a. ~~The An~~ expelled member may request a hearing before the  
20 22 membership of the credit union. A meeting of the membership  
20 23 shall be held within sixty days of the member's request.  
20 24 b. The membership may, by majority vote at the membership  
20 25 meeting, reinstate the expelled member upon terms and  
20 26 conditions prescribed by it.

20 27 3. Any member may withdraw from the credit union at any  
20 28 time, but notice of withdrawal may be required as provided in  
20 29 this section.

20 30 4. All amounts paid on shares or as deposits of an  
20 31 expelled or withdrawing member, with any dividends or interest  
20 32 accredited thereto, to the date thereof, shall, after  
20 33 deducting all amounts due from the member to the credit union  
20 34 and an amount as necessary to honor outstanding share drafts  
20 35 drawn against accounts of the member, be paid to the member.

21 1 5. Upon expulsion or withdrawal of a member from a credit  
21 2 union, or at any other time, the credit union may require  
21 3 sixty days' notice of intention to withdraw shares and thirty  
21 4 days' notice of intention to withdraw deposits, except that a  
21 5 credit union shall not at any time require notice of  
21 6 withdrawal with respect to funds which are subject to  
21 7 withdrawal by share drafts.

21 8 6. Withdrawing or expelled members shall have no further  
21 9 rights in the credit union but are not, by such expulsion or  
21 10 withdrawal, released from any remaining liability to the  
21 11 credit union.

21 12 Sec. 44. NEW SECTION. 533.19A SUSPENSION OR RESTRICTION  
21 13 OF SERVICES.

21 14 1. A state credit union may suspend or deny certain  
21 15 services to members who have performed any of the following  
21 16 actions:  
21 17 a. Caused a loss to the state credit union.  
21 18 b. Violated the membership agreement or any policy adopted  
21 19 by the board.  
21 20 c. Been physically or verbally abusive to state credit  
21 21 union members or staff.

21 22 2. Members with suspended services may maintain a share  
21 23 account and continue to vote at annual and special meetings.

21 24 Sec. 45. Section 533.38, Code 2003, is amended by adding  
21 25 the following new subsection:

21 26 NEW SUBSECTION. 12. Establish one or more capital  
21 27 accounts in the same manner as if it were a federal credit  
21 28 union.

21 29 DIVISION III

21 30 BANKS AS LIMITED LIABILITY COMPANIES

21 31 Sec. 46. Section 422.11, Code 2003, is amended to read as  
21 32 follows:

21 33 422.11 FRANCHISE TAX CREDIT.

21 34 The taxes imposed under this division, less the credits  
21 35 allowed under section 422.12, shall be reduced by a franchise  
22 1 tax credit. A taxpayer who is a shareholder in a financial  
22 2 institution, as defined in section 581 of the Internal Revenue  
22 3 Code, which has in effect for the tax year an election under  
22 4 subchapter S of the Internal Revenue Code, or is a member of a  
22 5 financial institution organized as a limited liability company  
22 6 under chapter 524 that is taxed as a partnership for federal  
22 7 income tax purposes, shall compute the amount of the tax  
22 8 credit by recomputing the amount of tax under this division by  
22 9 reducing the taxable income of the taxpayer by the taxpayer's  
22 10 pro rata share of the items of income and expense of the  
22 11 financial institution and subtracting the credits allowed  
22 12 under section 422.12. This recomputed tax shall be subtracted  
22 13 from the amount of tax computed under this division after the  
22 14 deduction for credits allowed under section 422.12. The  
22 15 resulting amount, which shall not exceed the taxpayer's pro  
22 16 rata share of the franchise tax paid by the financial  
22 17 institution, is the amount of the franchise tax credit  
22 18 allowed.

22 19 Sec. 47. Section 524.103, subsections 6, 8, 17, 20, 30,  
22 20 31, and 33, Code 2003, are amended to read as follows:

22 21 6. "Articles of incorporation" means the original or  
22 22 restated articles of incorporation and all amendments thereto  
22 23 and includes articles of merger. "Articles of incorporation"  
22 24 also means the original or restated articles of organization  
22 25 and all amendments including articles of merger if a state  
22 26 bank is organized as a limited liability company under this  
22 27 chapter.

22 28 8. "Bank" means a corporation or limited liability company  
22 29 organized under this chapter or 12 U.S.C. } 21.

22 30 17. "Control" means when a person, directly or indirectly  
22 31 or acting through or together with one or more persons,  
22 32 satisfies any of the following:

22 33 a. Owns, controls, or has the power to vote fifty percent  
22 34 or more of any class of voting securities or membership  
22 35 interests of another person.

23 1 b. Controls, in any manner, the election of a majority of  
23 2 the directors, managers, trustees, or other persons exercising  
23 3 similar functions of another person.

23 4 c. Has the power to exercise a controlling influence over  
23 5 the management or policies of another person.

23 6 20. "Executive officer" means a person who participates or  
23 7 has authority to participate, other than in the capacity of a  
23 8 director or manager, in major policymaking functions of a  
23 9 state bank, whether or not the officer has an official title,  
23 10 whether or not such a title designates the officer as an  
23 11 assistant, or whether or not the officer is serving without  
23 12 salary or other compensation. The chief executive officer,  
23 13 chairperson of the board, the president, every vice president,  
23 14 and the cashier of a state bank are deemed to be executive  
23 15 officers, unless such an officer is excluded, by resolution of  
23 16 the board of directors of a state bank or by the bylaws of the  
23 17 state bank, from participation, other than in the capacity of  
23 18 a director, in major policymaking functions of the state bank,  
23 19 and the officer does not actually participate in the major  
23 20 policymaking functions. All officers who serve on a board of  
23 21 directors are deemed to be executive officers, except as  
23 22 provided for in section 524.701, subsection 3.

23 23 30. "Shareholder" means one who is a holder of record of  
23 24 shares in a state bank. If a state bank is organized as a  
23 25 limited liability company under this chapter, "shareholder"  
23 26 means any member of the limited liability company.

23 27 31. "Shares" means the units into which the proprietary  
23 28 interests in a state bank are divided, including any  
23 29 membership interests of a state bank organized as a limited  
23 30 liability company under this chapter.

23 31 33. "State bank" means any bank incorporated pursuant to  
23 32 the provisions of this chapter after January 1, 1970, and any  
23 33 "state bank" or "savings bank" incorporated pursuant to the  
23 34 laws of this state and doing business as such on January 1,

23 35 1970, or organized as a limited liability company under this  
24 1 chapter.

24 2 Sec. 48. Section 524.103, Code 2003, is amended by adding  
24 3 the following new subsections:

24 4 NEW SUBSECTION. 9A. "Board of directors" means the board  
24 5 of directors of a state bank as provided in section 524.601.  
24 6 For state banks organized as a limited liability company under  
24 7 this chapter, "board of directors" means a board of directors  
24 8 or board of managers as designated by the limited liability  
24 9 company in its articles of organization or operating  
24 10 agreement.

24 11 NEW SUBSECTION. 18A. "Director" means a member of the  
24 12 board of directors and includes a manager of a state bank  
24 13 organized as a limited liability company under this chapter.

24 14 NEW SUBSECTION. 23A. "Manager" means a person designated  
24 15 by the members to manage a state bank organized as a limited  
24 16 liability company under this chapter as provided in the  
24 17 articles of organization or an operating agreement and may  
24 18 include a member of the board of directors.

24 19 NEW SUBSECTION. 23B. "Member" means a person with a  
24 20 membership interest in a state bank organized as a limited  
24 21 liability company under this chapter.

24 22 NEW SUBSECTION. 23C. "Membership interest" means a  
24 23 member's share of the profits and losses, the right to receive  
24 24 distributions of assets, and any right to vote or participate  
24 25 in management, of a state bank organized as a limited  
24 26 liability company under this chapter.

24 27 Sec. 49. Section 524.301, Code 2003, is amended to read as  
24 28 follows:

24 29 524.301 INCORPORATORS == ORGANIZERS.

24 30 A state bank may be incorporated or organized as a limited  
24 31 liability company under this chapter by one or more  
24 32 individuals eighteen years of age or older, a majority of whom  
24 33 shall be residents of this state and citizens of the United  
24 34 States.

24 35 Sec. 50. NEW SECTION. 524.302A ARTICLES OF INCORPORATION  
25 1 == LIMITED LIABILITY COMPANY.

25 2 1. The articles of incorporation of a state bank organized  
25 3 as a limited liability company under this chapter shall be in  
25 4 the form prescribed by the superintendent, and shall set forth  
25 5 all of the following:

25 6 a. The name of the state bank, that it is organized for  
25 7 the purpose of conducting the business of banking, and that it  
25 8 is organized under the provisions of this chapter.

25 9 b. The street address of the limited liability company's  
25 10 initial registered office and the name of its initial  
25 11 registered agent at that office.

25 12 c. The location of the state bank's proposed principal  
25 13 office of the limited liability company, which may be the same  
25 14 as the registered office, but need not be within this state.

25 15 d. The duration of the state bank, which shall be  
25 16 perpetual.

25 17 e. The aggregate number of common and preferred shares  
25 18 which the state bank shall have authority to issue and the par  
25 19 value of such shares. If such shares are to be divided into  
25 20 classes or series, the number of shares of each class or  
25 21 series and a statement of the par value of the shares of each  
25 22 class or series.

25 23 f. The number of managers constituting the initial board  
25 24 of directors and the names and addresses of the individuals  
25 25 who are to serve as directors until successors are elected and  
25 26 qualify. A statement that the exclusive authority to manage  
25 27 the state bank is vested in a board of directors that is  
25 28 elected or appointed by the members, that operates in  
25 29 substantially the same manner as, and has substantially the  
25 30 same rights, powers, privileges, duties, and responsibilities  
25 31 as, a board of directors of a state bank chartered as a  
25 32 corporation under this chapter.

25 33 g. A provision that the articles of incorporation,  
25 34 operating agreement, or other organizational documents of the  
25 35 state bank shall not require the consent of any other owner in  
26 1 order for an owner to transfer membership interests in the  
26 2 state bank, including voting rights.

26 3 2. The articles of incorporation may set forth any or all  
26 4 of the following:

26 5 a. Provisions not inconsistent with law regarding  
26 6 management of the business and regulation of the affairs of  
26 7 the state bank.

26 8 b. Any provision required or permitted by this chapter to  
26 9 be set forth in the operating agreement.

26 10 3. The articles of incorporation need not set forth any of

26 11 the organizational powers enumerated in this chapter.

26 12 Sec. 51. Section 524.303, Code 2003, is amended to read as  
26 13 follows:

26 14 524.303 APPLICATION FOR APPROVAL.

26 15 The incorporators or organizers shall make an application  
26 16 to the superintendent for approval of a proposed state bank in  
26 17 the manner prescribed by the superintendent and shall deliver  
26 18 to the superintendent, together with such application:

26 19 1. The articles of incorporation.

26 20 2. Applicable fees, payable to the secretary of state as  
26 21 specified in section 490.122 or 490A.124, for the filing and  
26 22 recording of the articles of incorporation.

26 23 Sec. 52. Section 524.304, subsection 1, Code 2003, is  
26 24 amended to read as follows:

26 25 1. The incorporators or organizers of a state bank shall,  
26 26 within thirty days of the acceptance of the application for  
26 27 processing, publish notice of the proposed incorporation or  
26 28 organization once each week for two successive weeks in a  
26 29 newspaper of general circulation published in the municipal  
26 30 corporation which is proposed as the principal place of  
26 31 business of the state bank, or if there is none, a newspaper  
26 32 of general circulation published in the county, or in a county  
26 33 adjoining the county, in which the proposed state bank is to  
26 34 have its principal place of business. The notice shall set  
26 35 forth all of the following:

27 1 a. The name of the proposed state bank.

27 2 b. A statement that it is to be incorporated or organized  
27 3 under this chapter.

27 4 c. The purpose or purposes of the state bank.

27 5 d. The names and addresses of the incorporators or  
27 6 organizers and of the members of the initial board of

27 7 directors or board of directors as they appear, or will  
27 8 appear, in the articles of incorporation.

27 9 e. The date the application was accepted for processing.

27 10 f. If the incorporation or organization of the state bank  
27 11 has been approved by the superintendent under section 524.305,  
27 12 subsection 8, the name and address of the bank with which the  
27 13 state bank will have merged, or the assets of which the state  
27 14 bank will have acquired or the condition of which in some  
27 15 other way provided a purpose for the incorporation or  
27 16 organization.

27 17 Sec. 53. Section 524.305, subsection 1, paragraph d, Code  
27 18 2003, is amended to read as follows:

27 19 d. The character and fitness of the incorporators or  
27 20 organizers and of the members of the initial board of

27 21 directors are such as to command the confidence of the  
27 22 community and to warrant the belief that the business of the  
27 23 proposed state bank will be honestly and efficiently  
27 24 conducted.

27 25 Sec. 54. Section 524.305, subsections 6, 7, and 9, Code  
27 26 2003, are amended to read as follows:

27 27 6. If the superintendent approves the application, the  
27 28 superintendent shall notify the incorporators or organizers,  
27 29 and such other persons who requested in writing that they be  
27 30 notified, of the approval. If the superintendent disapproves  
27 31 the application, the superintendent shall notify the  
27 32 incorporators or organizers of the action and the reason for  
27 33 the decision.

27 34 7. The actions of the superintendent shall be subject to  
27 35 judicial review in accordance with chapter 17A. The court may  
28 1 award damages to the incorporators or organizers if it finds  
28 2 that review is sought frivolously or in bad faith.

28 3 9. As a condition of receiving the decision of the  
28 4 superintendent with respect to the application the  
28 5 incorporators or organizers shall reimburse the superintendent  
28 6 for all expenses incurred by the superintendent in connection  
28 7 with the application.

28 8 Sec. 55. Section 524.306, Code 2003, is amended to read as  
28 9 follows:

28 10 524.306 INCORPORATION OR ORGANIZATION OF STATE BANK.

28 11 1. Unless a delayed effective date or time is specified,  
28 12 the corporate or organizational existence of a state bank  
28 13 begins when the articles of incorporation, with the  
28 14 superintendent's approval indicated on the articles of  
28 15 incorporation, are filed with the secretary of state. The  
28 16 secretary of state shall record the articles of incorporation  
28 17 and forward a copy of them to the county recorder of the  
28 18 county in which the state bank is to have its principal place  
28 19 of business.

28 20 2. The secretary of state's acknowledgment of filing of  
28 21 the articles of incorporation is conclusive proof that the

28 22 incorporators or organizers satisfied all conditions precedent  
28 23 to incorporation or organization, except in a proceeding  
28 24 instituted by the superintendent to cancel or revoke the  
28 25 incorporation or involuntarily dissolve the corporation or  
28 26 organization.

28 27 Sec. 56. Section 524.307, Code 2003, is amended to read as  
28 28 follows:

28 29 524.307 INITIAL ORGANIZATION OF STATE BANK.

28 30 Upon incorporation, or organization as a limited liability  
28 31 company, of the state bank, the initial board of directors  
28 32 shall hold an organizational meeting within this state, at the  
28 33 call of a majority of the directors, to complete the  
28 34 organization of the state bank by electing officers, adopting  
28 35 bylaws, if any are to be adopted, and conducting any other  
29 1 business properly brought before the board at the meeting.

29 2 Sec. 57. Section 524.308, subsection 2, Code 2003, is  
29 3 amended to read as follows:

29 4 2. If a state bank transacts any business before receipt  
29 5 of an authorization to do business in violation of subsection  
29 6 1, the directors, managers, and officers who willfully  
29 7 authorized or participated in the action are severally liable  
29 8 for the debts and liabilities of the state bank incurred prior  
29 9 to the receipt of the authorization to do business.

29 10 Sec. 58. Section 524.310, Code 2003, is amended to read as  
29 11 follows:

29 12 524.310 NAME OF STATE BANK.

29 13 1. The name of a state bank originally incorporated or  
29 14 organized after the effective date of this chapter shall  
29 15 include the word "bank" and may include the word "state" or  
29 16 "trust" in its name. A state bank using the word "trust" in  
29 17 its name must be authorized under this chapter to act in a  
29 18 fiduciary capacity.

29 19 2. The provisions of this section shall not require any  
29 20 state bank, existing and operating on January 1, 1970, to add  
29 21 to, modify or otherwise change its corporate or organizational  
29 22 name, either on January 1, 1970, or upon renewal of its  
29 23 corporate existence pursuant to section 524.314.

29 24 3. If a state bank existing and operating on January 1,  
29 25 1970, causes its corporate or organizational name to be  
29 26 changed, the name as changed shall comply with subsection 1 of  
29 27 this section.

29 28 4. a. A person may reserve the exclusive use of a  
29 29 corporate or organizational name for a state bank by  
29 30 delivering an application to the secretary of state for  
29 31 filing. The application must set forth the name and address  
29 32 of the applicant and the name proposed to be reserved. If the  
29 33 secretary of state finds that the corporate or organizational  
29 34 name applied for is available, the secretary of state shall  
29 35 reserve the name for the applicant's exclusive use for a  
30 1 nonrenewable one hundred twenty day period.

30 2 b. The owner of a reserved corporate or organizational  
30 3 name may transfer the reservation to another person by  
30 4 delivering to the secretary of state a signed notice of the  
30 5 transfer that states the name and address of the transferee.

30 6 Sec. 59. Section 524.312, subsections 1 and 5, Code 2003,  
30 7 are amended to read as follows:

30 8 1. A state bank originally incorporated or organized  
30 9 pursuant to this chapter shall have its principal place of  
30 10 business within the city limits of a municipal corporation.  
30 11 The existence of a state bank shall not, however, be affected  
30 12 by the subsequent discontinuance of the municipal corporation.  
30 13 A state bank existing and operating on January 1, 1970, which  
30 14 does not have its principal place of business within the city  
30 15 limits of a municipal corporation, may renew its corporate or  
30 16 organizational existence pursuant to section 524.314 without  
30 17 regard to this section and may also operate as a bank or  
30 18 convert to and operate as a bank office when acquired by or  
30 19 merged into another state bank and approved by the  
30 20 superintendent.

30 21 5. A state bank approved under the provisions of section  
30 22 524.305, subsection 8, shall not commence its business at any  
30 23 location other than within a municipal corporation or  
30 24 unincorporated area in which was located the principal place  
30 25 of business or an office of the bank the condition of which  
30 26 was the basis for the superintendent authorizing incorporation  
30 27 or organization of the new state bank.

30 28 Sec. 60. Section 524.313, Code 2003, is amended to read as  
30 29 follows:

30 30 524.313 BYLAWS.

30 31 A state bank may adopt bylaws. The power to adopt, amend,  
30 32 or repeal bylaws or adopt new bylaws is vested in the board of

30 33 directors unless reserved to the shareholders by the articles  
30 34 of incorporation. The bylaws may contain any provisions for  
30 35 the regulation and management of the affairs of the state bank  
31 1 not inconsistent with law or the articles of incorporation.  
31 2 For a state bank organized as a limited liability company  
31 3 under this chapter, "bylaws" means the operating agreement of  
31 4 the state bank.

31 5 Sec. 61. NEW SECTION. 524.315 STATE BANKS AS LIMITED  
31 6 LIABILITY COMPANIES.

31 7 1. A state bank organized as a limited liability company  
31 8 under this chapter shall also be subject to chapter 490A, the  
31 9 Iowa limited liability company Act. If a provision of the  
31 10 Iowa limited liability company Act conflicts with a provision  
31 11 of this chapter or any rule of the superintendent adopted  
31 12 pursuant to this chapter, the provisions of this chapter or  
31 13 rule of the superintendent shall control.

31 14 2. The superintendent shall possess the exclusive  
31 15 authority to regulate a state bank organized as a limited  
31 16 liability company under this chapter.

31 17 3. The superintendent may adopt rules to ensure that a  
31 18 state bank organized as a limited liability company under this  
31 19 chapter is operating in a safe and sound manner and is subject  
31 20 to the superintendent's authority in the same manner as a  
31 21 state bank organized as a corporation.

31 22 Sec. 62. Section 524.401, subsections 2, 3, and 4, Code  
31 23 2003, are amended to read as follows:

31 24 2. The minimum capital structure of a state bank  
31 25 incorporated after July 1, 1995, or organized after July 1,  
31 26 2004, pursuant to the provisions of this chapter shall not be  
31 27 less than the amount required by the federal deposit insurance  
31 28 corporation, or its successor, or a greater amount which the  
31 29 superintendent may deem necessary in view of the deposit  
31 30 potential of the state bank and current banking standards  
31 31 relating to total capital requirements.

31 32 3. A state bank incorporated on or after July 1, 1995, or  
31 33 organized after July 1, 2004, pursuant to this chapter, prior  
31 34 to receiving authorization to do business from the  
31 35 superintendent, shall establish paid-in surplus and undivided  
32 1 profits as required by the superintendent.

32 2 4. A state bank originally incorporated or organized  
32 3 pursuant to this chapter shall establish, prior to receiving  
32 4 authorization to do business from the superintendent, paid-in  
32 5 surplus and undivided profits as required by the  
32 6 superintendent.

32 7 Sec. 63. Section 524.525, Code 2003, is amended to read as  
32 8 follows:

32 9 524.525 SUBSCRIPTION FOR SHARES BEFORE INCORPORATION OR  
32 10 ORGANIZATION.

32 11 1. A subscription for shares entered into before  
32 12 incorporation or organization of the state bank is irrevocable  
32 13 for six months unless the subscription agreement provides a  
32 14 longer or shorter period, or all subscribers agree to  
32 15 revocation.

32 16 2. The board of directors may determine the payment terms  
32 17 of subscriptions for shares that were entered into before  
32 18 incorporation or organization of the state bank unless the  
32 19 subscription agreement specifies the terms. A call for  
32 20 payment by the board of directors must be uniform so far as  
32 21 practicable as to all shares of the same class or series,  
32 22 unless the subscription agreement specifies otherwise.

32 23 3. Shares issued pursuant to subscriptions entered into  
32 24 before incorporation or organization of the state bank are  
32 25 fully paid and nonassessable when the state bank receives the  
32 26 consideration specified in the subscription agreement.

32 27 4. If a subscriber defaults in payment of money or  
32 28 property under a subscription agreement entered into before  
32 29 incorporation or organization of the state bank, the state  
32 30 bank may do either of the following:

32 31 a. Collect the amount owed as any other debt.

32 32 b. Unless the subscription agreement provides otherwise,  
32 33 the state bank may rescind the agreement and may sell the  
32 34 shares if the debt remains unpaid more than twenty days after  
32 35 the state bank sends written demand for payment to the  
33 1 subscriber.

33 2 Sec. 64. Section 524.528, subsection 2, paragraph c, Code  
33 3 2003, is amended to read as follows:

33 4 c. There is no preemptive right with respect to any of the  
33 5 following:

33 6 (1) Shares issued as compensation to directors, managers,  
33 7 officers, agents, or employees of the state bank, its  
33 8 subsidiaries, or its affiliates.

33 9 (2) Shares issued to satisfy conversion or option rights  
33 10 created to provide compensation to directors, managers,  
33 11 officers, agents, or employees of the state bank, its  
33 12 subsidiaries, or its affiliates.

33 13 (3) Shares authorized in articles of incorporation that  
33 14 are issued within six months from the effective date of  
33 15 incorporation or organization.

33 16 Sec. 65. Section 524.801, subsection 1, Code 2003, is  
33 17 amended to read as follows:

33 18 1. To sue and be sued, complain and defend, in its  
33 19 corporate or organizational name.

33 20 Sec. 66. Section 524.801, unnumbered paragraph 2, Code  
33 21 2003, is amended to read as follows:

33 22 The powers granted in this section shall not be construed  
33 23 as limiting or enlarging any grant of authority made elsewhere  
33 24 in this chapter, or as a limitation on the purposes for which  
33 25 a state bank may be incorporated or organized.

33 26 Sec. 67. Section 524.1301, Code 2003, is amended to read  
33 27 as follows:

33 28 524.1301 DISSOLUTION BY INCORPORATORS, ORGANIZERS, OR  
33 29 INITIAL DIRECTORS.

33 30 A majority of the incorporators, organizers, or initial  
33 31 directors of a state bank that has not issued shares or has  
33 32 not commenced business may dissolve the state bank by  
33 33 delivering articles of dissolution to the superintendent,  
33 34 together with the applicable filing and recording fees, for  
33 35 filing with the secretary of state that set forth all of the  
34 1 following:

34 2 1. The name of the state bank.

34 3 2. The date of its incorporation or organization.

34 4 3. Either of the following:

34 5 a. That the state bank has not issued any shares.

34 6 b. That the state bank has not commenced business.

34 7 4. That no debt of the state bank remains unpaid.

34 8 5. If shares were issued, that the net assets of the state  
34 9 bank remaining after the payment of all necessary expenses  
34 10 have been distributed to the shareholders.

34 11 6. That a majority of the incorporators, organizers, or  
34 12 initial directors authorized the dissolution.

34 13 Sec. 68. Section 524.1302, Code 2003, is amended to read  
34 14 as follows:

34 15 524.1302 INVOLUNTARY DISSOLUTION PRIOR TO COMMENCEMENT OF  
34 16 BUSINESS.

34 17 Prior to the issuance of an authorization to do business,  
34 18 the superintendent may cause the dissolution of a state bank  
34 19 if there exists any reason why it should not have been  
34 20 incorporated or organized under this chapter or if an  
34 21 authorization to do business has not been issued within one  
34 22 year after the date of its incorporation or organization, or  
34 23 such longer time as the superintendent may allow for  
34 24 satisfaction of conditions precedent to its issuance. After  
34 25 giving the state bank adequate notice and an opportunity for  
34 26 hearing, the superintendent shall certify the applicable facts  
34 27 by the filing of a statement with the secretary of state, who  
34 28 shall thereafter issue a certificate of dissolution. Upon the  
34 29 issuance of such certificate of dissolution by the secretary  
34 30 of state, the corporate or organizational existence of the  
34 31 state bank shall cease.

34 32 Sec. 69. Section 524.1309, Code 2003, is amended to read  
34 33 as follows:

34 34 524.1309 BECOMING SUBJECT TO CHAPTER 490 OR 490A.

34 35 In lieu of the dissolution procedure prescribed in sections  
35 1 524.1303 to 524.1306, a state bank may cease to carry on the  
35 2 business of banking and, after compliance with this section,  
35 3 continue as a corporation subject to chapter 490; or if the  
35 4 state bank is organized as a limited liability company under  
35 5 this chapter, continue as a limited liability company subject  
35 6 to chapter 490A.

35 7 1. A state bank ~~which that~~ has commenced business may  
35 8 propose to voluntarily cease to carry on the business of  
35 9 banking and become a corporation subject to chapter 490, or a  
35 10 limited liability company subject to chapter 490A, upon the  
35 11 affirmative vote of the holders of at least a majority of the  
35 12 shares entitled to vote on such proposal, adopting a plan  
35 13 involving both a provision for acquisition of its assets and  
35 14 assumption of its liabilities by another state bank, national  
35 15 bank, or other financial institution insured by the federal  
35 16 deposit insurance corporation, and a provision for continuance  
35 17 of its business if acquisition of its assets and assumption of  
35 18 its liabilities is not effected, or any other plan providing  
35 19 for the cessation of banking business and the payment of its

35 20 liabilities.

35 21 2. The application to the superintendent for approval of a  
35 22 plan described in subsection 1 ~~of this section~~ shall be  
35 23 treated by the superintendent in the same manner as an  
35 24 application for approval of a plan of dissolution under  
35 25 ~~subsection 2 of section 524.1303, subsection 2, and shall be~~  
35 26 ~~subject to subsection 3 of section 524.1303, subsection 3.~~

35 27 3. Immediately upon adoption and approval of a plan to  
35 28 voluntarily cease to carry on the business of banking and  
35 29 become a corporation subject to chapter 490, or a limited  
35 30 liability company subject to chapter 490A, the state bank  
35 31 shall deliver to the superintendent a plan to cease the  
35 32 business of banking and become a corporation subject to  
35 33 chapter 490, or a limited liability company subject to chapter  
35 34 490A, which shall be signed by two of its duly authorized  
35 35 officers and shall contain the name of the state bank, the  
36 1 post office address of its principal place of business, the  
36 2 name and address of its officers and directors, the number of  
36 3 shares entitled to vote on the plan and the number of shares  
36 4 voted for or against the plan, respectively, the nature of the  
36 5 business to be conducted by the corporation under chapter 490,  
36 6 or by the limited liability company subject to chapter 490A,  
36 7 and the general nature of the assets to be held by the  
36 8 corporation or company.

36 9 4. Upon approval of the plan by the superintendent, the  
36 10 state bank shall immediately surrender to the superintendent  
36 11 its authorization to do business as a bank and shall cease to  
36 12 accept deposits and carry on the banking business except  
36 13 insofar as may be necessary for it to complete the settlement  
36 14 of its affairs as a state bank in accordance with subsection  
36 15 5.

36 16 5. The board of directors has full power to complete the  
36 17 settlement of the affairs of the state bank. Within thirty  
36 18 days after approval by the superintendent of the plan to cease  
36 19 the business of banking and become a corporation subject to  
36 20 chapter 490, or a limited liability company subject to chapter  
36 21 490A, the state bank shall give notice of its intent to  
36 22 persons identified in section 524.1305, subsection 4, in the  
36 23 manner provided for in that subsection. In completing the  
36 24 settlement of its affairs as a state bank the state bank shall  
36 25 also follow the procedure prescribed in section 524.1305,  
36 26 subsections 4, 5, and 6.

36 27 6. Upon completion of all the requirements of this  
36 28 section, the state bank shall deliver to the superintendent  
36 29 articles of intent to be subject to chapter 490 or 490A,  
36 30 together with the applicable filing and recording fees, which  
36 31 shall set forth that the state bank has complied with this  
36 32 section, that it has ceased to carry on the business of  
36 33 banking, and the information required by section 490.202  
36 34 relative to the contents of articles of incorporation under  
36 35 chapter 490, or article of organization under chapter 490A.  
37 1 If the superintendent finds that the state bank has complied  
37 2 with this section and that the articles of intent to be  
37 3 subject to chapter 490 or 490A satisfy the requirements of  
37 4 this section, the superintendent shall deliver them to the  
37 5 secretary of state for filing and recording in the secretary  
37 6 of state's office, and they shall be filed and recorded in the  
37 7 office of the county recorder.

37 8 7. Upon the filing of the articles of intent to be subject  
37 9 to chapter 490 or 490A, the state bank shall cease to be a  
37 10 state bank subject to this chapter, and shall cease to have  
37 11 the powers of a state bank subject to this chapter and shall  
37 12 become a corporation subject to chapter 490 or a limited  
37 13 liability company subject to chapter 490A. The secretary of  
37 14 state shall issue a certificate as to the filing of the  
37 15 articles of intent to be subject to chapter 490 or 490A, and  
37 16 send the certificate to the corporation or limited liability  
37 17 company or its representative. The articles of intent to be  
37 18 subject to chapter 490 or 490A shall be the articles of  
37 19 incorporation of the corporation or a limited liability  
37 20 company. The provisions of chapter 490 or 490A becoming  
37 21 applicable to a corporation or limited liability company  
37 22 formerly doing business as a state bank shall not affect any  
37 23 right accrued or established, or liability or penalty incurred  
37 24 under this chapter prior to the filing with the secretary of  
37 25 state of the articles of intent to be subject to chapter 490  
37 26 or 490A.

37 27 8. A shareholder of a state bank who objects to adoption  
37 28 by the state bank of a plan to cease to carry on the business  
37 29 of banking and to continue as a corporation subject to chapter  
37 30 490, or a limited liability company subject to chapter 490A,



37 31 is entitled to appraisal rights provided for in chapter 490,  
37 32 division XIII, or in chapter 490A, subchapter VII.

37 33 9. A state bank, at any time prior to the approval of the  
37 34 articles of intent to become subject to chapter 490 or 490A,  
37 35 may revoke the proceedings in the manner prescribed by section  
38 1 524.1306.

38 2 Sec. 70. Section 524.1405, subsection 2, paragraph f, Code  
38 3 2003, is amended to read as follows:

38 4 f. The shares of each party to the merger that are to be  
38 5 converted into shares, obligations, or other securities of the  
38 6 surviving party or any other corporation or limited liability  
38 7 company or into cash or other property are converted, and the  
38 8 former holders of the shares are entitled only to the rights  
38 9 provided in the articles of merger or to their rights under  
38 10 section 524.1406.

38 11 Sec. 71. Section 524.1408, Code 2003, is amended to read  
38 12 as follows:

38 13 524.1408 MERGER OF CORPORATION OR LIMITED LIABILITY  
38 14 COMPANY SUBSTANTIALLY OWNED BY A STATE BANK.

38 15 A state bank owning at least ninety percent of the  
38 16 outstanding shares, of each class, of another corporation or  
38 17 limited liability company which it is authorized to own under  
38 18 this chapter, may merge the other corporation or limited  
38 19 liability company into itself without approval by a vote of  
38 20 the shareholders of either the state bank or the subsidiary  
38 21 corporation or limited liability company. The board of  
38 22 directors of the state bank shall approve a plan of merger,  
38 23 mail to shareholders of record of the subsidiary corporation  
38 24 or holders of membership interests in the subsidiary limited  
38 25 company, and prepare and execute articles of merger in the  
38 26 manner provided for in section 490.1105. The articles of  
38 27 merger, together with the applicable filing and recording  
38 28 fees, shall be delivered to the superintendent who shall, if  
38 29 the superintendent approves of the proposed merger and if the  
38 30 superintendent finds the articles of merger satisfy the  
38 31 requirements of this section, deliver them to the secretary of  
38 32 state for filing and recording in the secretary of state's  
38 33 office, and they shall be filed in the office of the county  
38 34 recorder. The secretary of state upon filing the articles of  
38 35 merger shall issue a certificate of merger and send the  
39 1 certificate to the state bank and a copy of it to the  
39 2 superintendent.

39 3 Sec. 72. Section 524.1802, subsection 1, Code 2003, is  
39 4 amended by adding the following new paragraph:

39 5 NEW PARAGRAPH. gg. "Incorporated in any state" means a  
39 6 limited liability company organized as a state bank under this  
39 7 chapter and a limited liability company organized as a state  
39 8 bank under the laws of any state as defined in 12 U.S.C. }  
39 9 1813(a)(3).

39 10 Sec. 73. Section 524.2001, Code 2003, is amended to read  
39 11 as follows:

39 12 524.2001 APPLICABILITY OF OTHER CHAPTERS.

39 13 Chapters 490, 490A, 491, 492, and 493 do not apply to banks  
39 14 except as provided by this chapter.

39 15 DIVISION IV  
39 16 REAL PROPERTY LOANS

39 17 Sec. 74. Section 535.8, subsection 2, paragraph b,  
39 18 unnumbered paragraph 2, Code 2003, is amended to read as  
39 19 follows:

39 20 The lender shall not charge the borrower for the cost of  
39 21 revenue stamps or real estate commissions which are paid by  
39 22 the seller.

39 23 PARAGRAPH DIVIDED. ~~Collection~~ The collection of any cost  
39 24 costs other than as expressly permitted by this lettered  
39 25 paragraph "b" is prohibited. However, additional costs  
39 26 incurred in connection with a loan under this paragraph "b",

39 27 if bona fide and reasonable, may be collected by a state=  
39 28 chartered financial institution licensed under chapter 524,  
39 29 533, or 534, to the extent permitted under applicable federal  
39 30 law as determined by the office of the comptroller of the  
39 31 currency of the United States department of treasury, the  
39 32 national credit union association, or the office of thrift  
39 33 supervision of the United States department of treasury. Such  
39 34 costs shall apply only to the same type of state chartered  
39 35 entity as the federally chartered entity affected and shall  
40 1 apply to and may be collected by an insurer organized under  
40 2 chapter 508 or 515, or otherwise authorized to conduct the  
40 3 business of insurance in this state.

40 4 Nothing in this section shall be construed to change the  
40 5 prohibition against the sale of title insurance or sale of  
40 6 insurance against loss or damage by reason of defective title

40 7 or encumbrances as provided in section 515.48, subsection 10.

40 8 DIVISION V

40 9 REAL PROPERTY FINANCIAL LIABILITY

40 10 Sec. 75. NEW SECTION. 455B.751 DEFINITIONS.

40 11 As used in this division, unless the context otherwise  
40 12 requires:

40 13 1. "Acquired" means purchased, leased, obtained by  
40 14 inheritance or descent and distribution, or obtained by  
40 15 foreclosure sale under chapter 654, nonjudicial voluntary  
40 16 foreclosure under section 654.18, deed in lieu of foreclosure  
40 17 under section 654.19, foreclosure without redemption under  
40 18 section 654.20, or nonjudicial foreclosure of nonagriculture  
40 19 mortgages under chapter 655A.

40 20 2. "Hazardous substance" means the same as defined in  
40 21 section 455B.381 or 455B.411.

40 22 3. "Hazardous waste" means the same as defined in section  
40 23 455B.411.

40 24 4. "Potentially responsible party" means a person whose  
40 25 acts or omissions were a proximate cause of the contamination  
40 26 of the acquired property, or a person whose negligent acts or  
40 27 omissions are a proximate cause of injury or damages resulting  
40 28 from exposure to such contamination. Injury or damages to  
40 29 persons or property arising by reason of contamination that  
40 30 migrates from the acquired property shall not be deemed to be  
40 31 caused by an act or omission of the person that acquired the  
40 32 property, except to the extent that the act or omission of  
40 33 such person exacerbated the release of such contamination.

40 34 5. "Regulated substance" means the same as defined in  
40 35 section 455B.471.

41 1 6. "Response action" means any action taken to reduce,  
41 2 minimize, eliminate, clean up, control, assess, or monitor a  
41 3 release of hazardous substances, hazardous waste, or regulated  
41 4 substances to protect the public health, safety, or the  
41 5 environment.

41 6 7. "Third party" means any person other than a person that  
41 7 holds indicia of title to property as identified in section  
41 8 455B.752, subsection 1, or that has acquired property as  
41 9 identified in section 455B.752, subsection 2.

41 10 8. "Third-party liability" means any liability or  
41 11 obligation, other than contractual obligations that  
41 12 specifically waive all or part of the immunity provided by  
41 13 section 455B.752, arising out of or resulting from  
41 14 contamination of property by a hazardous substance, hazardous  
41 15 waste, or a regulated substance, including without limitation,  
41 16 claims for illness, personal injury, death, consequential  
41 17 damages, exemplary damages, lost profits, trespass, loss of  
41 18 use of property, loss of rental value, reduction in property  
41 19 value, property damages, or statutory or common law nuisance.

41 20 Sec. 76. NEW SECTION. 455B.752 IMMUNITY FROM THIRD-PARTY  
41 21 LIABILITY.

41 22 A person that holds indicia of ownership of property  
41 23 contaminated by a hazardous substance, hazardous waste, or  
41 24 regulated substance, and that satisfies all of the conditions  
41 25 provided in section 455B.381, subsection 7, paragraphs "a",  
41 26 "b", and "c", or section 455B.471, subsection 6, paragraph  
41 27 "b", subparagraphs (1), (2), and (3), or a person that has  
41 28 acquired property contaminated by a hazardous substance,  
41 29 hazardous waste, or regulated substance, shall not be liable  
41 30 to any third party for any third-party liability arising from  
41 31 such contamination provided that all of the following apply:

41 32 1. The person does not knowingly cause or permit a new or  
41 33 additional hazardous substance, hazardous waste, or regulated  
41 34 substance to arise on or from the acquired property that  
41 35 injures a third party or contaminates property owned or leased  
42 1 by a third party.

42 2 2. The person is not a potentially responsible party or  
42 3 affiliated with any potentially responsible party by reason of  
42 4 any of the following:

42 5 a. Any direct or indirect familial relationship.  
42 6 b. Any contractual, corporate, or financial relationship,  
42 7 other than a contractual, corporate, or financial relationship  
42 8 that is created by the instruments by which title to the  
42 9 property is conveyed or financed or by a contract for the sale  
42 10 of goods or services.

42 11 c. A reorganization of a business entity that is or was a  
42 12 potentially responsible party.

42 13 Sec. 77. NEW SECTION. 455B.753 ACCESS TO PROPERTY.

42 14 A person that holds indicia of title to property or a  
42 15 person that has acquired property as identified in section  
42 16 455B.752, shall provide reasonable access to the acquired  
42 17 property to any potentially responsible party or to any

42 18 authorized regulatory authority for the purpose of  
42 19 investigating or evaluating any contamination, planning, or  
42 20 preparing a remedial plan for any abatement of the  
42 21 contamination, and for any required remediation.

42 22 Sec. 78. NEW SECTION. 455B.754 LEGAL RESPONSIBILITY.

42 23 This division shall not be interpreted to affect the legal  
42 24 responsibility to the state to conduct response actions under  
42 25 any applicable state law. This division shall not be  
42 26 interpreted to affect or provide immunity from any criminal  
42 27 liability.

42 28 Sec. 79. EFFECTIVE DATE. This division of this Act, being  
42 29 deemed of immediate importance, takes effect upon enactment.

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CHRISTOPHER C. RANTS  
Speaker of the House

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JEFFREY M. LAMBERTI  
President of the Senate

43 6 I hereby certify that this bill originated in the House and  
43 7 is known as House File 2484, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

43 13 Approved \_\_\_\_\_, 2004

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THOMAS J. VILSACK  
Governor