

House File 2587 - Enrolled

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HOUSE FILE 2587

AN ACT

RELATING TO FINANCIAL INSTITUTIONS INCLUDING THE REGULATION OF STATE BANKS, BANK HOLDING COMPANIES, AND INDUSTRIAL LOAN COMPANIES, AND PROVIDING FOR PENALTIES.

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

Section 1. Section 12C.22, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. Investment securities and shares in which a bank is permitted to invest under section 524.901, subsections 1, 2, and 3, and 4.

Sec. 2. Section 524.217, subsection 2, Code 2005, is amended to read as follows:

2. The superintendent may furnish to the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, national credit union administration, the federal home loan bank, the financial crimes enforcement network of the federal department of the treasury, the United States internal revenue service, and financial institution regulatory authorities of other states, or to any official or supervising examiner of such regulatory authorities, a copy of the report of any or all examinations made of any state bank and of any affiliate of a state bank.

Sec. 3. Section 524.220, subsection 1, Code 2005, is amended to read as follows:

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

Sec. 4. Section 524.220, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 5. Section 524.312, subsection 3, Code 2005, is amended to read as follows:

3. If a change in the location of the principal place of business of a state bank is proposed, application for approval of the superintendent shall be made as required by the superintendent pursuant to this section. A change in location of the principal place of business of a state bank, including a change from one municipal corporation to another municipal corporation within an urban complex, requires an amendment to the articles of incorporation pursuant to sections 524.1502, 524.1504, and 524.1506. A state bank seeking approval of a change of location pursuant to this subsection shall publish ~~once each week for two consecutive weeks~~ a notice of the proposed change of location in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the state bank has its principal place of business, and in the municipal corporation in which it seeks to establish its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the municipal corporation is located. ~~The notices~~ notice shall be published within thirty days after the application to the superintendent for approval of the change in location is accepted for processing. The notice shall set forth the name of the state bank, the present location of its principal place of business, the location to which it proposes to move its principal place of business, and the date upon which the application was accepted for processing by the superintendent.

Sec. 6. Section 524.606, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

3 4 If, in the opinion of the superintendent, any director of a
3 5 state bank or bank holding company has violated any law
3 6 relating to such state bank or bank holding company or has
3 7 engaged in unsafe or unsound practices in conducting the
3 8 business of such state bank or bank holding company, the
3 9 superintendent may cause notice to be served upon such
3 10 director, to appear before the superintendent to show cause
3 11 why the director should not be removed from office. A copy of
3 12 such notice shall be sent to each director of the state bank
3 13 or bank holding company affected, by registered or certified
3 14 mail. If, after granting the accused director a reasonable
3 15 opportunity to be heard, the superintendent finds that the
3 16 director violated any law relating to such state bank or bank
3 17 holding company or engaged in unsafe or unsound practices in
3 18 conducting the business of such state bank or bank holding
3 19 company, the superintendent, in the superintendent's
3 20 discretion, may order that such director be removed from
3 21 office, and that such director be prohibited from serving in
3 22 any capacity in any other bank, bank holding company, bank
3 23 affiliate, trust company, or an entity licensed under chapter
3 24 533A, 533C, 533D, 535B, 536, or 536A. A copy of the order
3 25 shall be served upon such director and upon the state bank or
3 26 bank holding company of which the person is a director at
3 27 which time the person shall cease to be a director of the
3 28 state bank or bank holding company. The resignation,
3 29 termination of employment, or separation of such director,
3 30 including a separation caused by the closing of the state bank
3 31 or bank holding company at which the person serves as a
3 32 director, does not affect the jurisdiction and authority of
3 33 the superintendent to cause notice to be served and proceed
3 34 under this subsection against the director, if the notice is
3 35 served before the end of the six-year period beginning on the
4 1 date the director ceases to be a director with the bank.

4 2 Sec. 7. Section 524.707, subsection 2, Code 2005, is
4 3 amended to read as follows:

4 4 2. Section 524.606, subsection 2, which provides for the
4 5 removal of directors by the superintendent, shall have equal
4 6 application to officers and employees of a bank, bank holding
4 7 company, bank affiliate, or trust company.

4 8 Sec. 8. Section 524.1201, Code Supplement 2005, is amended
4 9 by adding the following new subsection:

4 10 NEW SUBSECTION. 4. A bank shall not operate a loan
4 11 production office or deposit production office in this state
4 12 unless either the bank has received approval from the
4 13 superintendent or the bank operated the loan production office
4 14 or deposit production office before July 1, 2006.

4 15 Sec. 9. Section 524.1601, Code 2005, is amended to read as
4 16 follows:

4 17 524.1601 PENALTIES AND CRIMINAL PROVISIONS APPLICABLE TO
4 18 DIRECTORS, OFFICERS, AND EMPLOYEES OF STATE BANKS AND BANK
4 19 HOLDING COMPANIES.

4 20 1. A director, officer, or employee of a state bank or
4 21 bank holding company who willfully violates any of the
4 22 provisions of subsection 4 of section 524.612, section
4 23 524.613, subsection 2 of section 524.706, insofar as such
4 24 subsection incorporates subsection 4 of section 524.612, or
4 25 section 524.710, shall be guilty of a serious misdemeanor,
4 26 plus, in the following circumstances, an additional fine or
4 27 fines equal to:

4 28 a. The amount of money or the value of the property which
4 29 the director, officer, or employee received for procuring, or
4 30 attempting to procure, a loan, extension of credit, or
4 31 investment by the state bank or bank holding company, upon
4 32 conviction of a violation of subsection 1 of section 524.613,
4 33 or of subsection 1 of section 524.710.

4 34 b. The amount by which the director's, officer's, or
4 35 employee's deposit account in the state bank or bank holding
5 1 company is overdrawn, upon conviction of a violation of
5 2 subsection 2 of section 524.613, or of subsection 2 of section
5 3 524.710.

5 4 c. The amount of any profit which the director, officer,
5 5 or employee receives on the transaction, upon conviction of a
5 6 violation of subsection 4 of section 524.612, or of subsection
5 7 2 of section 524.706, insofar as each applies to purchases
5 8 from and sales to a state bank or bank holding company upon
5 9 terms more favorable to such director, ~~or~~ officer, or employee
5 10 than those offered to other persons.

5 11 d. The amount of profit, fees or other compensation
5 12 received, upon conviction of a violation of section 524.710,
5 13 subsection 1, paragraph "b".

5 14 2. A director or officer who willfully makes or receives a

5 15 loan in violation of subsection 1 of section 524.612, or
5 16 subsection 1 of section 524.706, shall be guilty of a serious
5 17 misdemeanor and shall be subject to an additional fine equal
5 18 to that amount of the loan in excess of the limitation imposed
5 19 by such subsections, and shall be forever disqualified from
5 20 acting as a director or officer of any state bank or bank
5 21 holding company. For the purpose of this subsection, amounts
5 22 which are treated as obligations of an officer or director
5 23 pursuant to subsection 5 of section 524.612, shall be
5 24 considered in determining whether the loan or extension of
5 25 credit is in violation of subsection 1 of section 524.612 and
5 26 subsection 1 of section 524.706.

5 27 3. A director, officer, or employee of a state bank or
5 28 bank holding company who willfully makes or receives a loan or
5 29 extension of credit of funds held by the state bank or bank
5 30 holding company as fiduciary, in violation of subsection 4 of
5 31 section 524.1002, shall be guilty of a serious misdemeanor and
5 32 shall be subject to a further fine equal to the amount of the
5 33 loan or extension of credit made in violation of subsection 4
5 34 of section 524.1002, and shall be forever disqualified from
5 35 acting as a director, officer, or employee of any state bank
6 1 or bank holding company.

6 2 4. A director, officer, or employee of a state bank or
6 3 bank holding company who willfully violates, or participates
6 4 in the violation of, section 524.814, or section 524.819,
6 5 shall be guilty of a serious misdemeanor.

6 6 Sec. 10. Section 524.1602, unnumbered paragraph 1, Code
6 7 2005, is amended to read as follows:

6 8 The superintendent may impose a penalty on a state bank of
6 9 up to one ~~hundred thousand~~ dollars for each day:

6 10 Sec. 11. Section 524.1603, subsection 2, Code 2005, is
6 11 amended to read as follows:

6 12 2. The superintendent may impose a penalty on a state bank
6 13 of up to one ~~hundred thousand~~ dollars for each day that it
6 14 violates the provisions of section 524.1201.

6 15 Sec. 12. Section 536A.2, Code 2005, is amended by adding
6 16 the following new subsections:

6 17 NEW SUBSECTION. 1A. "Affiliate" means the same as defined
6 18 in 12 U.S.C. } 1841(k).

6 19 NEW SUBSECTION. 1B. "Commercial activities" means
6 20 activities in which an industrial loan company is not
6 21 specifically authorized to engage under the provisions of this
6 22 chapter.

6 23 NEW SUBSECTION. 1C. "Control" means the same as provided
6 24 in 12 U.S.C. } 1841(a)(2).

6 25 Sec. 13. Section 536A.4, Code 2005, is amended to read as
6 26 follows:

6 27 536A.4 LIMITATIONS.

6 28 ~~No~~ A license shall not be issued to any individual,
6 29 partnership, nonprofit organization, or unincorporated
6 30 association. A license shall not be issued to an applicant
6 31 that engages in commercial activities directly or through an

6 32 affiliate. Not more than one place of business where loans
6 33 are made shall be maintained under the same license but the
6 34 superintendent may issue more than one license to the same
6 35 licensee upon compliance, for each such additional license,
7 1 with all the provisions of this chapter governing an original
7 2 issuance of a license.

7 3 Sec. 14. Section 536A.5, subsection 6, Code 2005, is
7 4 amended by striking the subsection.

7 5 Sec. 15. Section 536A.12, subsection 3, paragraph a, Code
7 6 2005, is amended to read as follows:

7 7 a. For purposes of this section, ~~"control" means control~~
7 8 ~~as defined in section 524.103. However,~~ a change of control
7 9 does not occur when a majority shareholder of an industrial
7 10 loan company transfers the shareholder's shares of the
7 11 industrial loan company to a revocable trust, so long as the
7 12 transferor retains the power to revoke the trust and take
7 13 possession of such shares.

7 14 Sec. 16. Section 536A.21, Code 2005, is amended to read as
7 15 follows:

7 16 536A.21 OTHER BUSINESS IN SAME OFFICE.

7 17 A licensee engaged in the business of operating an
7 18 industrial loan company under the provisions of this chapter
7 19 may not conduct its business within any office, room, suite,
7 20 or place of business ~~in which any other business is engaged in~~
7 21 ~~or conducted, unless specifically authorized to do so in~~
7 22 ~~writing by the superintendent upon the superintendent's~~
7 23 ~~finding that the character of the other business is such that~~
7 24 ~~its operation by the licensee would not facilitate evasions of~~
7 25 ~~this chapter or any other statute of the state of Iowa~~

~~7 26 relating to the making of loans, or premises in which~~
~~7 27 commercial activities are conducted, unless the place where~~
~~7 28 its business is conducted by the industrial loan company is~~
~~7 29 physically separated from the location where commercial~~
~~7 30 activities are conducted and has a separate entrance. The~~
~~7 31 prohibition of this section shall not apply to the conduct of~~
~~7 32 business if, prior to January 1, 2006, the superintendent has~~
~~7 33 determined in writing that the character of the other business~~
~~7 34 is such that its operation by the licensee would not~~
~~7 35 facilitate evasions of the provisions of this chapter or any~~
8 1 other provision of the Code relating to the making of loans.

8 2 Sec. 17. Section 536A.22, unnumbered paragraph 3, Code
8 3 2005, is amended by striking the unnumbered paragraph.

8 4 Sec. 18. Section 536A.23, Code 2005, is amended by adding
8 5 the following new subsection:

8 6 NEW SUBSECTION. 6. Engage in commercial activities or
8 7 have an affiliate that engages in commercial activities. This
8 8 subsection shall not apply to an industrial loan company with
8 9 an affiliate that is engaged in commercial activities prior to
8 10 January 1, 2006, if control of the industrial loan company is
8 11 not thereafter transferred to an entity that engages in
8 12 commercial activities directly or through an affiliate.

8 13 Sec. 19. NEW SECTION. 536A.32 ACQUISITIONS.

8 14 Neither an out-of-state bank nor an out-of-state bank
8 15 holding company shall directly or indirectly acquire control
8 16 of, or directly or indirectly acquire all or substantially all
8 17 of the assets of, an industrial loan company located in this
8 18 state, unless the industrial loan company has been in
8 19 continuous existence and operation for at least five years.

8 20 Sec. 20. NEW SECTION. 536A.33 ACQUISITIONS AND BRANCHES
8 21 BY OUT-OF-STATE COMPANIES.

8 22 An out-of-state industrial loan company, industrial bank,
8 23 or similar institution as provided in 12 U.S.C. }
8 24 1841(c)(2)(H), shall not do any of the following:

- 8 25 1. Establish or operate a branch in this state.
- 8 26 2. Directly or indirectly acquire control of an industrial
8 27 loan company located in this state.
- 8 28 3. Directly or indirectly acquire all or substantially all
8 29 of the assets of an industrial loan company in this state.

8 30 Sec. 21. NEW SECTION. 536A.34 ACTIVITIES OF BRANCHES OF
8 31 OUT-OF-STATE COMPANIES.

8 32 A branch of an out-of-state industrial loan company,
8 33 industrial bank, or similar institution as provided in 12
8 34 U.S.C. } 1841(c)(2)(H), shall not engage in any activity in
8 35 this state in which an industrial loan company is not
9 1 specifically permitted to engage under the provisions of this
9 2 chapter, and shall not conduct operations at any location
9 3 where an industrial loan company is not permitted to conduct
9 4 operations under this chapter.

9 5 Sec. 22. Section 524.1803, Code 2005, is repealed.

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9 9 _____
9 10 CHRISTOPHER C. RANTS
9 11 Speaker of the House

9 12 _____
9 13 JOHN P. KIBBIE
9 14 President of the Senate

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9 17 I hereby certify that this bill originated in the House and
9 18 is known as House File 2587, Eighty-first General Assembly.

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9 21 _____
9 22 MARGARET THOMSON
9 23 Chief Clerk of the House

9 24 Approved _____, 2006

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9 29 THOMAS J. VILSACK
9 29 Governor