

Bill Commerce 1/12/76, Pass 2/20

House File 829
Commerce
Walter, Chair
Krause
Tauke

APR 29 1975

Place On Calendar
5/11, Pass 5/19

House File 829
Commerce
Curtis, Chairperson
Jenkins
Rodgers

HOUSE FILE 829

By COMMITTEE ON COMMERCE

Passed House, Date 5-6-76 (p. 2466) Passed Senate, Date 5-20-76 (p. 2130)
Vote: Ayes 89 Nays 0 Vote: Ayes 46 Nays 0
Approved 6-23-76

A BILL FOR

1 An Act relating to the administration of the Uniform Consumer
2 Credit Code.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section five hundred twenty-four point two
2 hundred twenty-seven (524.227), subsection four (4), paragraph
3 c, Code 1975, is amended to read as follows:

4 c. ~~A-statement~~ An estimate of the ~~receipts-and~~
5 disbursements of agency funds for consumer credit protection
6 during the calendar year ending the preceding December 31,
7 ~~and-of-the-funds-on-hand-on-that-date.~~

8 Sec. 2. Section five hundred thirty-three point thirty-
9 seven (533.37), subsection four (4), paragraph c, Code 1975,
10 is amended to read as follows:

11 c. ~~A-statement~~ An estimate of the ~~receipts-and~~
12 disbursements of agency funds for consumer credit protection
13 during the calendar year ending the preceding December 31,
14 ~~and-of-the-funds-on-hand-on-that-date.~~

15 Sec. 3. Section five hundred thirty-four point seventy
16 (534.70), subsection four (4), paragraph c, Code 1975, is
17 amended to read as follows:

18 c. ~~A-statement~~ An estimate of the ~~receipts-and~~
19 disbursements of agency funds for consumer credit protection
20 during the calendar year ending the preceding December 31,
21 ~~and-of-the-funds-on-hand-on-that-date.~~

22 Sec. 4. Section five hundred thirty-six point twenty-nine
23 (536.29), subsection four (4), paragraph c, Code 1975, is
24 amended to read as follows:

25 c. ~~A-statement~~ An estimate of the ~~receipts-and~~
26 disbursements of agency funds for consumer credit protection
27 during the calendar year ending the preceding December 31,
28 ~~and-of-the-funds-on-hand-on-that-date.~~

29 Sec. 5. Section five hundred thirty-six A point twenty-
30 nine (536A.29), subsection four (4), paragraph c, Code 1975,
31 is amended to read as follows:

32 c. ~~A-statement~~ An estimate of the ~~receipts-and~~
33 disbursements of agency funds for consumer credit protection
34 during the calendar year ending the preceding December 31,
35 ~~and-of-the-funds-on-hand-on-that-date.~~

1 Sec. 6. Section five hundred thirty-seven point two
2 thousand three hundred five (537.2305), subsection one (1),
3 Code 1975, is amended to read as follows:

4 1. For the purpose of discovering violations of this
5 chapter or securing information lawfully required, the
6 licensing authority shall examine periodically at intervals
7 he deems appropriate, but not less ~~than-annually~~ frequently
8 than is required for other examinations of the licensee by
9 section five hundred twenty-four point two hundred seventeen
10 (524.217), five hundred thirty-three point six (533.6), five
11 hundred thirty-four point forty-one (534.41), five hundred
12 thirty-six point ten (536.10), or five hundred thirty-six
13 A point fifteen (536A.15) of the Code, whichever is applicable,
14 the loans, business, and records of every licensee, except
15 a licensee which has no office physically located in this
16 state and engages in no face-to-face solicitation in this
17 state. In addition, the licensing authority may at any time
18 investigate the loans, business, and records of any lender.
19 For these purposes the licensing authority shall be given
20 free and reasonable access to the offices, places of business,
21 and records of the lender.

22 Sec. 7. Chapter five hundred thirty-seven (537), article
23 six (6), part one (1), Code 1975, is amended by adding the
24 following new section:

25 NEW SECTION. 537.6117. ADMINISTRATIVE RULES.

26 1. The attorney general or his designee pursuant to chapter
27 17A may adopt, amend and repeal rules which he deems reasonably
28 necessary for the enforcement of this chapter. Each rule
29 so adopted shall be applicable to and binding upon every
30 person subject to the provisions of this chapter.

31 2. An official or agency of this state charged with the
32 enforcement of provisions of this chapter may adopt, amend
33 or repeal rules pursuant to chapter 17A, subject to the
34 following limitations:

35 a. A rule adopted pursuant to this subsection which

1 conflicts with a rule adopted by the administrator is void.
 2 b. An official or agency shall not adopt a rule which
 3 interprets or prescribes law or policy which has not been
 4 approved in advance of adoption by the administrator. If,
 5 in the opinion of the administrator, the proposed rule
 6 interprets the provisions of this chapter, or otherwise should
 7 be a rule of general applicability, the administrator may
 8 disapprove the proposed rule, in which case the official or
 9 agency shall not adopt that rule. The administrator may adopt
 10 that rule or a different rule relating to the same subject,
 11 or may determine that no rule relating to that subject shall
 12 be adopted.

13 Sec. 8. Section five hundred thirty-seven point six
 14 thousand two hundred four (537.6204), Code 1975, is repealed.

15 EXPLANATION

16 Sections 1 through 5 of the bill involve an accounting
 17 problem. Because routine examinations for credit code
 18 compliance are made at the same time other statutory
 19 examinations are made, the various departmental officials
 20 and the attorney general have indicated that exact amounts
 21 of expenditures for consumer credit enforcement cannot be
 22 determined. This series of amendments would require only
 23 estimates of expenditures as opposed to actual statements
 24 of account.

25 Section 6 of this bill is suggested by the attorney general
 26 and the superintendent of banking. Under banking law, the
 27 superintendent is required to examine state banks not less
 28 frequently than each 18 months. That time period is
 29 inconsistent with this section which requires annual
 30 examinations. Because of the expense of routine examinations
 31 it is believed that these maximum time intervals should be
 32 the same so that routine examinations for compliance with
 33 the credit code and the respective chapter under which the
 34 license was issued can be handled during the same visit.

35 Under present law, credit unions, savings and loan

1 associations, small loan companies and industrial loan
 2 companies are examined not less frequently than annually (see,
 3 3 533.6 (2), 534.41 (3), 536.10 (para. 3) and 536A.15), so
 4 this amendment will have no actual effect on their frequency
 5 of examination.

6 Sections 7 and 8 of the bill strike section 537.6204
 7 relating to the rule-making authorities under the Consumer
 8 Credit Code, and places it in part one of article six of that
 9 Code. Conceivably the present location of that section
 10 arguably limits its applicability to subjects governed by
 11 part two of article six. The intent of the section is that
 12 it apply to all rule-making authority and it is believed
 13 necessary to relocate it to achieve this purpose.

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LSB 428.1
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HOUSE FILE 829

AN ACT

RELATING TO THE ADMINISTRATION OF THE UNIFORM CONSUMER CREDIT CODE.

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

Section 1. Section five hundred twenty-four point two hundred twenty-seven (524.227), subsection four (4), paragraph c, Code 1975, is amended to read as follows:

c. ~~A-statement An estimate~~ of the ~~receipts-and dis-~~bursements of agency funds for consumer credit protection during the calendar year ending the preceding December 31, ~~and-of-the-funds-on-hand-on-that-date.~~

Sec. 2. Section five hundred thirty-three point thirty-seven (533.37), subsection four (4), paragraph c, Code 1975, is amended to read as follows:

c. ~~A-statement An estimate~~ of the ~~receipts-and dis-~~bursements of agency funds for consumer credit protection during the calendar year ending the preceding December 31, ~~and-of-the-funds-on-hand-on-that-date.~~

Sec. 3. Section five hundred thirty-four point seventy (534.70), subsection four (4), paragraph c, Code 1975, is amended to read as follows:

c. ~~A-statement An estimate~~ of the ~~receipts-and dis-~~bursements of agency funds for consumer credit protection during the calendar year ending the preceding December 31, ~~and-of-the-funds-on-hand-on-that-date.~~

Sec. 4. Section five hundred thirty-six point twenty-nine (536.29), subsection four (4), paragraph c, Code 1975, is amended to read as follows:

c. ~~A-statement An estimate~~ of the ~~receipts-and dis-~~bursements of agency funds for consumer credit protection during the calendar year ending the preceding December 31, ~~and-of-the-funds-on-hand-on-that-date.~~

Sec. 5. Section five hundred thirty-six A point twenty-

nine (536A.29), subsection four (4), paragraph c, Code 1975, is amended to read as follows:

c. ~~A-statement An estimate~~ of the ~~receipts-and dis-~~bursements of agency funds for consumer credit protection during the calendar year ending the preceding December 31, ~~and-of-the-funds-on-hand-on-that-date.~~

Sec. 6. Section five hundred thirty-seven point two thousand three hundred five (537.2305), subsection one (1), Code 1975, is amended to read as follows:

1. For the purpose of discovering violations of this chapter or securing information lawfully required, the licensing authority shall examine periodically at intervals he deems appropriate, but not less ~~than-annually~~ frequently than is required for other examinations of the licensee by section five hundred twenty-four point two hundred seventeen (524.217), five hundred thirty-three point six (533.6), five hundred thirty-four point forty-one (534.41), five hundred thirty-six point ten (536.10), or five hundred thirty-six A point fifteen (536A.15) of the Code, whichever is applicable, the loans, business, and records of every licensee, except a licensee which has no office physically located in this state and engages in no face-to-face solicitation in this state. In addition, the licensing authority may at any time investigate the loans, business, and records of any lender. For these purposes the licensing authority shall be given free and reasonable access to the offices, places of business, and records of the lender.

Sec. 7. Chapter five hundred thirty-seven (537), article six (6), part one (1), Code 1975, is amended by adding the following new section:

NEW SECTION. 537.6117. ADMINISTRATIVE RULES.

1. The attorney general or his designee pursuant to chapter 17A may adopt, amend and repeal rules which he deems reasonably necessary for the enforcement of this chapter. Each rule so adopted shall be applicable to and binding upon every person subject to the provisions of this chapter.

2. An official or agency of this state charged with the

enforcement of provisions of this chapter may adopt, amend or repeal rules pursuant to chapter 17A, subject to the following limitations:

a. A rule adopted pursuant to this subsection which conflicts with a rule adopted by the administrator is void.

b. An official or agency shall not adopt a rule which interprets or prescribes law or policy which has not been approved in advance of adoption by the administrator. If, in the opinion of the administrator, the proposed rule interprets the provisions of this chapter, or otherwise should be a rule of general applicability, the administrator may disapprove the proposed rule, in which case the official or agency shall not adopt that rule. The administrator may adopt that rule or a different rule relating to the same subject, or may determine that no rule relating to that subject shall be adopted.

Sec. 8. Section five hundred thirty-seven point six thousand two hundred four (537.6204), Code 1975, is repealed.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 829, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 6/23, 1976

ROBERT D. RAY
Governor