

Reprinted 4/3/81

Commerce: Halvorson of Clayton, Chair; Hummel and Woods.

Amended per 3353, En. Pass 3/23 (p. 859)

FEB 28 1981

HOUSE FILE 588

Commerce

BY SHULL

Passed House, Date 4-1-81 (p. 981) Passed Senate, Date _____

Vote: Ayes 83 Nays 12 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the collection by lenders of certain
 2 fees from persons other than sellers and borrowers in
 3 connection with certain real property purchase-money
 4 loans.

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

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HOUSE FILE 588

H-3333

1 Amend House File 588 as follows:
 2 1. Page 1, by striking lines 13 and 14 and
 3 inserting in lieu thereof the following: "from the
 4 person who developed or constructed the dwelling or
 5 from any other person who is neither the borrower
 6 nor the owner of the dwelling that is being".

H-3333 FILED
MARCH 23, 1981

BY COMMITTEE ON COMMERCE
SCHROEDER, Chair

Adopted 4/1/81 (p. 950)

1 Section 1. Section 535.8, subsection 2, paragraphs a and
2 d, Code 1981, are amended to read as follows:

3 2. a. A lender may collect in connection with a loan a
4 loan processing fee which does not exceed one percent of an
5 amount which is equal to the loan principal less twelve
6 thousand five hundred dollars, except that in the event of
7 an assumption of a prior loan the lender may collect a loan
8 processing fee which does not exceed an amount which is a
9 reasonable estimate of the expense of processing the loan
10 assumption but which does not exceed one percent of the amount
11 assumed. In addition, a lender may collect in connection
12 with a loan a commitment fee, closing fee, or similar charge
13 from any person other than the borrower or the person who
14 owns, occupies, and is selling the dwelling that is being
15 purchased with part or all of the proceeds of the loan. A
16 loan ~~processing~~ fee collected under the authority of this
17 paragraph is compensation to the lender solely for the use
18 of money, notwithstanding any provision of the agreement to
19 the contrary. However, a loan ~~processing~~ fee collected under
20 the authority of this paragraph shall be disregarded for
21 purposes of determining the maximum charge permitted by section
22 535.2 or 535.9, subsection 2. The collection in connection
23 with a loan of a loan origination fee, closing fee, commitment
24 fee or similar charge other than expressly authorized by this
25 paragraph is prohibited.

26 d. If a lender collects a fee or charge which is prohibited
27 by paragraph "a" or "b" of this subsection or which exceeds
28 the amount permitted by paragraph "a" or "b" of this
29 subsection, the borrower person from whom the fee was collected
30 has the right to recover the unlawful fee or charge or the
31 unlawful portion of the fee or charge, plus attorney fees
32 and costs incurred in any action necessary to effect recovery.

33 Sec. 2. Section 535.8, subsection 5, unnumbered paragraph
34 2, is amended by striking the unnumbered paragraph.

35

EXPLANATION

1 This bill would amend section 535.8 of the Code to allow
2 lenders to collect commitment fees from building contractors
3 and other persons in connection with loans made to acquire
4 single- or two-family dwellings. Existing law prohibits all
5 fees except the loan processing fee authorized by section
6 535.8, subsection 2, paragraph a.

7 The bill would take effect July 1 following enactment.

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rec 4/6/81

Commerce
Craft, Chairperson
Jensen
Rush

rec 4/8/81 (p. 1177)

HOUSE FILE 588

BY SHULL

(As Amended and Passed by the House)

Passed House, Date 4-8-81 (p. 981) Passed Senate, Date 4-15-81 (p. 1225)

Vote: Ayes 83 Nays 12 Vote: Ayes 40 Nays 7

Approved April 28, 1981

A BILL FOR

1 An Act relating to the collection by lenders of certain
2 fees from persons other than sellers and borrowers in
3 connection with certain real property purchase-money
4 loans.

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

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House Amendments _____

1 Section 1. Section 535.8, subsection 2, paragraphs a and
2 d, Code 1981, are amended to read as follows:

3 2. a. A lender may collect in connection with a loan a
4 loan processing fee which does not exceed one percent of an
5 amount which is equal to the loan principal less twelve
6 thousand five hundred dollars, except that in the event of
7 an assumption of a prior loan the lender may collect a loan
8 processing fee which does not exceed an amount which is a
9 reasonable estimate of the expense of processing the loan
10 assumption but which does not exceed one percent of the amount
11 assumed. In addition, a lender may collect in connection
12 with a loan a commitment fee, closing fee, or similar charge
13 from the person who developed or constructed the dwelling
14 or from any other person who is neither the borrower nor the
15 owner of the dwelling that is being purchased with part or
16 all of the proceeds of the loan. A loan processing fee
17 collected under the authority of this paragraph is compensation
18 to the lender solely for the use of money, notwithstanding
19 any provision of the agreement to the contrary. However,
20 a loan processing fee collected under the authority of this
21 paragraph shall be disregarded for purposes of determining
22 the maximum charge permitted by section 535.2 or 535.9,
23 subsection 2. The collection in connection with a loan of
24 a loan origination fee, closing fee, commitment fee or similar
25 charge other than expressly authorized by this paragraph is
26 prohibited.

27 d. If a lender collects a fee or charge which is prohibited
28 by paragraph "a" or "b" of this subsection or which exceeds
29 the amount permitted by paragraph "a" or "b" of this
30 subsection, the borrower person from whom the fee was collected
31 has the right to recover the unlawful fee or charge or the
32 unlawful portion of the fee or charge, plus attorney fees
33 and costs incurred in any action necessary to effect recovery.

34 Sec. 2. Section 535.8, subsection 5, unnumbered paragraph
35 2, is amended by striking the unnumbered paragraph.

HOUSE FILE 588

AN ACT

RELATING TO THE COLLECTION BY LENDERS OF CERTAIN FEES FROM PERSONS OTHER THAN SELLERS AND BORROWERS IN CONNECTION WITH CERTAIN REAL PROPERTY PURCHASE-MONEY LOANS.

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

Section 1. Section 535.8, subsection 2, paragraphs a and d, Code 1981, are amended to read as follows:

2. a. A lender may collect in connection with a loan a loan processing fee which does not exceed one percent of an amount which is equal to the loan principal less twelve thousand five hundred dollars, except that in the event of an assumption of a prior loan the lender may collect a loan processing fee which does not exceed an amount which is a reasonable estimate of the expense of processing the loan assumption but which does not exceed one percent of the amount assumed. In addition, a lender may collect in connection with a loan a commitment fee, closing fee, or similar charge from the person who developed or constructed the dwelling or from any other person who is neither the borrower nor the owner of the dwelling that is being purchased with part or all of the proceeds of the loan. A loan ~~processing~~ fee collected under the authority of this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan ~~processing~~ fee collected under the authority of this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. The collection in connection with a loan of a loan origination fee, closing fee, commitment fee or similar charge other than expressly authorized by this paragraph is prohibited.

d. If a lender collects a fee or charge which is prohibited by paragraph "a" or "b" of this subsection or which exceeds the amount permitted by paragraph "a" or "b" of this subsection, the borrower person from whom the fee was collected has the right to recover the unlawful fee or charge or the unlawful portion of the fee or charge, plus attorney fees and costs incurred in any action necessary to effect recovery.

Sec. 2. Section 535.8, subsection 5, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 588, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved 4/28, 1981

ROBERT D. RAY
Governor