

MAR 26 1987

HOUSE FILE 658

BY COMMITTEE ON SMALL BUSINESS
AND COMMERCE

Place On Calendar

(Formerly House Study Bill 298)

Passed House, Date 3-31-87 (p. 948) Passed Senate, Date 4/22/87 (p. 1452)

Vote: Ayes 95 Nays 0 Vote: Ayes 46 Nays 0

Approved May 29 1987

Referred to House 5/7/87 (p. 2141)
76

Referred to Senate 5/4/87 (p. 1827)
41-1

A BILL FOR

1 An Act relating to the allocation of the state ceiling on private
2 activity bonds for tax-exempt purposes and providing an
3 effective date.

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

HOUSE FILE 658

S-3604

- 1 Amend House File 658 as passed by the House as
- 2 follows:
- 3 1. Page 8, line 32 by striking the word "reasonable"
- 4 and inserting in lieu thereof the word "reasonable".
- 5 2. Page 8, line 35, by striking the word "appropriate"
- 6 and inserting in lieu thereof the word "appropriate".

S-3604

Filed April 15, 1987
(Adopted 4/22/87 (p. 1452))

BY JOHN A. PETERSON
BERL E. PRIEBE

SENATE AMENDMENT TO HOUSE FILE 658

H-3906

- 1 Amend House File 658 as passed by the House as
- 2 follows:
- 3 1. Page 8, line 32, by striking the word "reasonable"
- 4 and inserting in lieu thereof the word "reasonable".
- 5 2. Page 8, line 35, by striking the word "appropriate"
- 6 and inserting in lieu thereof the word "appropriate".

H-3906 FILED APRIL 23, 1987
House amended (4069) 4
Concurred 5/7/87 (p. 2140)

RECEIVED FROM THE SENATE

1 Section 1. Section 7C.2, subsection 1, Code 1987, is
2 amended to read as follows:

3 1. ~~Implement Act-section-621-of-the-Deficit-Reduction-Act~~
4 ~~of-1984,-Pub.-L.-No.-98-369,~~ section 146 of the Internal
5 Revenue Code by providing a different formula for allocating
6 the state ceiling among the various governmental units which
7 are authorized to issue private activity bonds under the laws
8 of this state.

9 Sec. 2. Section 7C.3, Code 1987, is amended by striking
10 the section and inserting in lieu thereof the following:

11 7C.3 DEFINITIONS.

12 For the purposes of this chapter, unless the context
13 otherwise requires:

14 1. "Internal Revenue Code" means the Internal Revenue Code
15 as defined in section 422.3.

16 2. "State ceiling" means the same as defined in section
17 146(d) of the Internal Revenue Code.

18 3. "Bond" or "private activity bond" means a private
19 activity bond as defined in section 141 of the Internal
20 Revenue Code.

21 4. "Political subdivision" means a political subdivision,
22 authority, or department of the state which is authorized
23 under the laws of the state to issue private activity bonds.

24 5. "Carryforward project" means a carryforward project or
25 carryforward purpose as defined in section 146(f) of the
26 Internal Revenue Code.

27 6. "Allocation" means that portion of the state ceiling
28 which is allocated and certified to a political subdivision
29 hereby or by the governor's designee pursuant to section 7C.8
30 with respect to an issue of bonds for a specific project or
31 purpose.

32 7. "Governor's designee" means the person, department, or
33 authority designated by the governor to administer this
34 chapter.

35 8. "Qualified mortgage bond" means a qualified mortgage

1 bond as defined in section 143(a) of the Internal Revenue
2 Code.

3 9. "Qualified small issue bond" means a qualified small
4 issue bond as defined in section 144(a) of the Internal
5 Revenue Code.

6 10. "Qualified student loan bond" means a qualified
7 student loan bond as defined in section 144(b) of the Internal
8 Revenue Code.

9 11. "First-time farmer" means a first-time farmer as
10 defined in section 147(c) of the Internal Revenue Code.

11 Sec. 3. Section 7C.4, Code 1987, is amended to read as
12 follows:

13 7C.4 MAXIMUM AMOUNT OF BONDS.

14 The aggregate principal amount of bonds which are subject
15 to section 146 of the Internal Revenue Code which may be
16 issued by all issuers political subdivisions during a calendar
17 year shall not exceed the state ceiling for that calendar
18 year, except as provided in section 7C.8.

19 Sec. 4. NEW SECTION. 7C.4A ALLOCATION OF STATE CEILING.

20 For each calendar year, the state ceiling shall be
21 allocated among bonds issued for various purposes as follows:

22 1. Thirty percent of the state ceiling shall be allocated
23 solely to the Iowa finance authority for the following
24 purposes:

25 a. Issuing qualified mortgage bonds.

26 b. Reallocating the amount, or any portion thereof, to
27 another qualified political subdivision for the purpose of
28 issuing qualified mortgage bonds; or

29 c. Exchanging the allocation, or any portion thereof, for
30 the authority to issue mortgage credit certificates by
31 election under section 25(c) of the Internal Revenue Code.

32 However, at any time during the calendar year the executive
33 director of the Iowa finance authority may determine that a
34 lesser amount need be allocated to the Iowa finance authority
35 and on that date this lesser amount shall be the amount

1 allocated to the authority and the excess shall be allocated
2 under subsection 6.

3 2. Twelve percent of the state ceiling shall be allocated
4 to bonds issued to carry out programs established under
5 chapters 280A, 280B, and 280C. However, at any time during
6 the calendar year the director of the Iowa department of
7 economic development may determine that a lesser amount need
8 be allocated and on that date this lesser amount shall be the
9 amount allocated for those programs and the excess shall be
10 allocated under subsection 6.

11 3. Sixteen percent of the state ceiling shall be allocated
12 to qualified student loan bonds. However, at any time during
13 the calendar year the governor's designee, with the approval
14 of the Iowa student loan liquidity corporation, may determine
15 that a lesser amount need be allocated to qualified student
16 loan bonds and on that date the lesser amount shall be the
17 amount allocated for those bonds and the excess shall be
18 allocated under subsection 6.

19 4. Five percent of the state ceiling shall be allocated to
20 qualified small issue bonds issued for first-time farmers.
21 However, at any time during the calendar year the governor's
22 designee, with the approval of the Iowa agricultural
23 development authority may determine that a lesser amount need
24 be allocated to qualified small issue bonds for first-time
25 farmers and on that date this lesser amount shall be the
26 amount allocated for those bonds and the excess shall be
27 allocated under subsection 6.

28 5. During the period of January 1 through October 25, five
29 percent of the state ceiling shall be reserved for private
30 activity bonds issued by political subdivisions, the proceeds
31 of which are used by the issuing political subdivisions.

32 6. a. The amount of the state ceiling not allocated under
33 subsections 1 through 4, and after October 25, the amount of
34 the state ceiling reserved under subsection 5 and not
35 allocated, shall be allocated to all bonds requiring an

1 allocation under section 146 of the Internal Revenue Code
2 without priority for any type of bond over another, except as
3 otherwise provided in sections 7C.5 and 7C.11.

4 b. The population of the state shall be determined in
5 accordance with the Internal Revenue Code.

6 Sec. 5. Section 7C.5, Code 1987, is amended by striking
7 the section and inserting in lieu thereof the following:

8 7C.5 FORMULA FOR ALLOCATION.

9 Except as provided in section 7C.4A, subsections 1 through
10 4, the state ceiling shall be allocated among all political
11 subdivisions on a statewide basis on the basis of the
12 chronological orders of receipt by the governor's designee of
13 the applications described in section 7C.6 with respect to a
14 definitive issue of bonds, as determined by the day, hour, and
15 minute time-stamped on the application immediately upon
16 receipt by the governor's designee. However, for the period
17 January 1 through October 25 of each year, allocations to
18 bonds for which an amount of the state ceiling has been
19 reserved pursuant to section 7C.4A, subsection 5, shall be
20 made to the political subdivisions submitting the applications
21 first from the reserved amount until the reserved amount has
22 been fully allocated and then from the amount specified in
23 section 7C.4A, subsection 6.

24 Sec. 6. Section 7C.6, Code 1987, is amended by striking
25 the section and inserting in lieu thereof the following:

26 7C.6 APPLICATION FOR ALLOCATION.

27 A political subdivision which proposes to issue bonds for a
28 particular project or purpose for which an allocation of the
29 state ceiling is required and has not already been made under
30 section 7C.4A, subsections 1 through 4, must make an
31 application for allocation before issuance of the bonds. The
32 application may be made by the political subdivision or its
33 representative, the beneficiary of the project or purpose, or
34 by a person acting on behalf of the beneficiary. The
35 application shall be submitted to the governor's designee, in

1 the form prescribed by the governor's designee. The
2 application shall contain, where appropriate, the following
3 information:

4 1. Name and mailing address of the political subdivision.

5 2. Name of the chief elected or appointed executive
6 officer of the political subdivision.

7 3. If the project to be financed by the bonds is not to be
8 owned by the political subdivision, the name or description
9 and location by mailing address or other definitive
10 description of the project for which the allocation is
11 requested.

12 4. Name and mailing address of both the initial owner,
13 beneficiary, or operator of the project and an appropriate
14 person from whom information regarding the project or purpose
15 can be obtained.

16 5. Date of adoption by the governing body of the political
17 subdivision of any initial governmental act with respect to
18 the bonds.

19 6. Amount of the state ceiling which the political
20 subdivision is requesting be allocated to the bonds.

21 7. Other information which the governor's designee deems
22 reasonably required to carry out the purposes of this chapter.

23 Sec. 7. Section 7C.7, Code 1987, is amended to read as
24 follows:

25 7C.7 CERTIFICATION OF ALLOCATION.

26 Upon the receipt of a completed application pursuant to
27 section 7C.6, the governor's designee shall promptly certify
28 to the ~~issuer~~ political subdivision the amount of the state
29 ceiling allocated to the bonds for the purpose or project with
30 respect to which the application was submitted. The

31 allocation shall remain valid for ~~ninety~~ thirty days from the
32 date the allocation ~~is~~ was certified, subject to the following
33 conditions:

34 1. If the bonds are issued and delivered for the purpose
35 or project within the ~~ninety-day~~ thirty-day period or the

1 forty-day extension period provided in subsection 2, the
2 issuer political subdivision or the-issuer's-attorney its
3 representative shall within ten days following the issuance
4 and delivery of the bonds notify or not later than October 25
5 of that year, if the bonds were issued and delivered on or
6 before that date, file with the governor's designee, in such
7 the form or manner as the governor's designee may prescribe, a
8 notification of the date of issuance and the delivery of the
9 bonds, and the actual principal amount of bonds issued and
10 delivered. The filing of the notification shall be done by
11 actual delivery or by posting in a United States post office
12 depository with correct first class postage paid. If the
13 actual principal amount of bonds issued and delivered is less
14 than the amount of the allocation, the amount of the
15 allocation is automatically reduced to the actual principal
16 amount of the bonds issued and delivered.

17 2. If the issuer political subdivision does not reasonably
18 expect to issue and deliver the bonds within the ninety-day
19 thirty-day period and evidence of an executed, valid and
20 binding agreement to purchase the bonds is obtained from an
21 entity with the legal ability to purchase and this agreement
22 is filed with the governor's designee, the ninety-day thirty-
23 day allocation period is automatically extended for an
24 additional thirty forty-five days. The allocation period
25 shall not be extended beyond that additional thirty forty-five
26 days.

27 3. The allocation is no longer valid after unless the
28 bonds are issued and delivered prior to December 24 or in the
29 case of bonds described in section 7C.11 are issued and
30 delivered prior to December 31 of the calendar year in which
31 it the allocation is certified, except as provided in section
32 7C.8.

33 Sec. 8. Section 7C.8, Code 1987, is amended to read as
34 follows:

35 7C.8 STATE CEILING CARRYFORWARDS.

1 It is the intention of the general assembly that the
 2 maximum use be made of all carryforward provisions in section
 3 ~~103(n)~~ of the Internal Revenue Code of 1954. Therefore, if
 4 the aggregate principal amount of bonds, subject to section
 5 146 of the Internal Revenue Code, issued by all issuers
 6 political subdivisions in a calendar year is less than the
 7 state ceiling for that calendar year, ~~an issuer~~ a political
 8 subdivision may apply to the governor's designee for an
 9 allocation of a specified portion of the excess state ceiling
 10 to be applied to a specified carryforward project. The
 11 governor's designee shall determine the time and manner in
 12 which applications for an allocation of excess state ceiling
 13 shall be made for this purpose and may, in the designee's
 14 discretion, refuse any requests. However, the procedures for
 15 applications, the method of identifying, and the types
 16 permitted of carryforward projects shall comply with the
 17 carryforward provisions of ~~section 103(n)~~ of the Internal
 18 Revenue Code of 1954 and regulations promulgated under that
 19 section those provisions.

20 Sec. 9. Section 7C.9, Code 1987, is amended to read as
 21 follows:

22 7C.9 NONBUSINESS DAYS.

23 If the expiration date of either the ninety-day thirty-day
 24 period or the thirty-day forty-five day extension period
 25 described in subsection 1 or 2 of section 7C.7 is a Saturday,
 26 Sunday or any day on which the offices of the state, banking
 27 institutions or savings and loan associations in the state are
 28 authorized or required to close, the expiration date is
 29 extended to the first day thereafter which is not a Saturday,
 30 Sunday or other previously described day.

31 Sec. 10. Section 7C.10, Code 1987, is amended to read as
 32 follows:

33 7C.10 RESUBMISSION OF EXPIRED ALLOCATIONS.

34 If an allocation becomes no longer valid as provided in
 35 section 7C.7, the ~~issuer~~ political subdivision may resubmit

1 its application for the same project or purpose. The
2 resubmitted application shall be treated as a new application
3 and preference, priority, or prejudice shall not be given to
4 the application or the issuer political subdivision as a
5 result of the prior application.

6 Sec. 11. Section 7C.11, Code 1987, is amended by striking
7 the section and inserting in lieu thereof the following:

8 7C.11 PRIORITY ALLOCATIONS.

9 Notwithstanding any other provision of this chapter, the
10 governor's designee shall give priority in allocation of the
11 state ceiling not yet allocated to bonds which must be issued
12 and delivered on or prior to December 31 of the calendar year
13 in order for the interest on the bonds to be exempt from
14 federal income taxation. Applications for an allocation with
15 respect to these bonds shall be accompanied by an opinion of a
16 nationally recognized bond counsel to the effect that the
17 bonds must be issued and delivered on or prior to December 31
18 in that calendar year in order for the interest on the bonds
19 to be exempt from federal income taxation.

20 Sec. 12. Section 7C.12, Code 1987, is amended to read as
21 follows:

22 7C.12 AUTHORITY AND DUTIES OF THE GOVERNOR AND GOVERNOR'S
23 DESIGNEE.

24 1. The governor shall designate a person, agency
25 department, or authority to administer this chapter. The
26 person, agency department, or authority so designated shall
27 serve at the pleasure of the governor and shall be selected
28 primarily for administrative ability and knowledge in the area
29 of public finance.

30 2. In addition to the powers and duties specified in
31 sections 7C.1 to 7C.11, the governor's designee:

32 1 a. Shall promulgate reasonable rules which are necessary
33 or expedient to carry out the intent and purposes of the
34 private activity bond allocation Act.

35 2 b. Shall maintain appropriate records of all

1 applications filed by ~~issuers~~ political subdivisions pursuant
2 to section 7C.6 and all bonds issued pursuant to these
3 applications including, but not limited to, a daily accounting
4 of the amount of the state ceiling available for allocation,
5 ~~and~~ the amount of the state ceiling which has been allocated
6 but not used, and the names, addresses, and telephone numbers
7 of those political subdivisions for whom an allocation has
8 been approved or disapproved and the amount of the allocation
9 approved or disapproved for the political subdivisions.

10 Sec. 13. This Act, being deemed of immediate importance,
11 takes effect upon enactment.

12 EXPLANATION

13 This bill implements the state volume limitations (state
14 ceiling) on private activity bonds mandated by the Tax Reform
15 Act of 1986.

16 The state ceiling is applicable to most private activity
17 bonds including qualified mortgage bonds, qualified student
18 loan bonds, exempt facility bonds, small-issue bonds,
19 qualified redevelopment bonds, and tax-exempt private loan
20 bonds. The volume limitation, however, is not applicable to
21 certain other private activity bonds including qualified
22 veterans' mortgage bonds, qualified 501(c)(3) bonds, exempt
23 facility bonds for airports, docks, and wharves, and exempt
24 facility bonds for solid waste disposal facilities that are
25 governmentally owned, nor is the state ceiling applicable to
26 traditional governmental purpose bonds, e.g., general
27 obligation bonds.

28 The Iowa state ceiling until December 31, 1987, is
29 \$250,000,000. After that date, the limitation is reduced to
30 \$150,000,000.

31 The bill directs that 30 percent of the state ceiling shall
32 be allocated to the Iowa finance authority for issuing
33 qualified mortgage bonds or for issuing mortgage credit
34 certificates; 12 percent for bonds issued to carry out
35 programs established under chapters 280A, 280B, and 280C; 16

1 percent for qualified student loan bonds issued by the Iowa
2 student loan liquidity corporation; 5 percent for bonds for
3 beginning farmers issued by the Iowa agricultural development
4 authority; and 5 percent for bonds issued by cities and
5 counties for quasi-private purposes which require an
6 allocation. The remaining amount (32 percent) of the state
7 ceiling is available for other bonds subject to the state
8 ceiling on a first-come, first-served basis. In the event
9 that it is determined that any of the above priority purposes
10 do not need all the state ceiling set aside for those
11 purposes, the excess may be reallocated for other types of
12 bonds.

13 The governor is authorized to appoint a designee to
14 administer the allocation of the state ceiling. Applications
15 for an allocation of the state ceiling are to be made to the
16 governor's designee. An allocation is valid for up to 75 days
17 after it has been made by the governor's designee.

18 The bill is effective upon enactment.

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HOUSE FILE 658

H-4224

Amend House File 658, as passed by the House, as follows:

1. Page 9, by inserting after line 9 the following:

"Sec. ____ . Section 524.803, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. Organize, acquire, or invest in a subsidiary for the purpose of engaging in any one or more of the following, subject to the prior approval of the superintendent:

(1) Nondepository activities that a state bank is authorized to engage in directly under this chapter.

(2) Any activity that a bank service corporation is authorized to engage in under state or federal law or regulation.

(3) Any activity authorized pursuant to section 524.825.

Sec. ____ . NEW SECTION. 524.825 SECURITIES ACTIVITIES.

Subject to the prior approval of the superintendent, a state bank or a subsidiary of a state bank organized or acquired pursuant to section 524.803, subsection 1, paragraph "f" may engage in directly, or may organize, acquire, or invest in a subsidiary for the purpose of engaging in securities activities and any aspect of the securities industry, including, but not limited to, any of the following:

1. Issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes, interest in mutual funds or money-market-type mutual funds, or other securities.

2. Organizing, sponsoring, and operating one or more mutual funds.

3. Acting as a securities broker-dealer licensed under chapter 502. The business relating to securities shall be conducted through, and in the name of, the broker-dealer. The requirements of chapter 502 apply to any business of the broker-dealer transacted in this state.

A subsidiary engaging in activities authorized by this section may also engage in any other authorized activities under section 524.803, subsection 1, paragraph "f".

Sec. ____ . Section 524.901, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. Futures, forward, and standby contracts to purchase and sell any of the instruments eligible for state banks' purchase and

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1 sale, subject to the prior approval of the
2 superintendent and pursuant to applicable federal laws
3 and regulations governing such contracts. Purchase
4 and sale of such contracts shall be conducted in
5 accordance with safe and sound banking practices and
6 with levels of the activity being reasonably related
7 to the state bank's business needs and capacity to
8 fulfill its obligations under the contracts.

9 Sec. ____ . Section 524.901, subsection 1, Code
10 1987, is amended by adding the following new lettered
11 paragraph:

12 NEW LETTERED PARAGRAPH. g. Bonds and securities
13 which are authorized investments under paragraph "a",
14 "b", "c", or "d" include investments in an investment
15 company or investment trust registered under the
16 Investment Company Act of 1940, 15 U.S.C. § 80a, the
17 portfolio of which is limited to the United States
18 government obligations described in paragraph "a",
19 "b", "c", or "d" and to repurchase agreements fully
20 collateralized by the United States government
21 obligations described in paragraph "a", "b", "c", or
22 "d", if the investment company or investment trust
23 takes delivery of the collateral either directly or
24 through an authorized custodian.

25 Sec. ____ . Section 524.901, subsection 3, paragraph
26 d, Code 1987, is amended to read as follows:

27 d. Shares in a corporation which the state bank is
28 authorized to acquire and hold pursuant to section
29 524.803, subsection 1, paragraphs "c", "d", and "e".

30 Sec. ____ . Section 524.901, subsection 3, Code
31 1987, is amended by adding the following new lettered
32 paragraphs:

33 NEW LETTERED PARAGRAPH. i. Shares of investment
34 companies, up to a maximum of twenty percent of
35 capital and surplus of the state bank in any one
36 company, if the portfolio of such an investment
37 company consists wholly of investments in which the
38 state bank could invest directly without limitation
39 pursuant to this section.

40 NEW LETTERED PARAGRAPH. j. Shares of investment
41 companies whose portfolios contain investments which
42 are subject to limitations pursuant to this section,
43 provided that a state bank's investment in such shares
44 does not exceed the limitation set forth in this
45 section for the underlying instrument.

46 Sec. ____ . Section 524.901, Code 1987, is amended
47 by adding the following new subsection:

48 NEW SUBSECTION. 6. A state bank may, in the
49 exercise of the powers granted in this chapter,
50 purchase cash value life insurance contracts which may

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include provisions for the lump sum payment of
2 premiums and which may include insurance against the
3 loss of the lump sum payment. The cash value life
4 insurance contracts purchased from any one company
5 shall not exceed twenty percent of capital and surplus
6 of the state bank.

7 Sec. ____ . Section 533.4, subsection 5, Code 1987,
8 is amended by adding the following new paragraph.

9 NEW PARAGRAPH. 1. Commercial paper issued by
10 United States corporations as defined by rule.

11 Sec. ____ . Section 533.4, subsection 7, Code 1987,
12 is amended to read as follows:

13 7. Assess fines as may be provided by the bylaws
14 ~~for failure to make repayments on loans and payments~~
15 ~~on shares when due, provided no such fine shall exceed~~
16 ~~one percent per month on amounts in arrears or five~~
17 ~~cents, whichever is the larger.~~

18 Sec. ____ . Section 533.5, Code 1987, is amended by
19 striking the section and inserting in lieu thereof the
20 following:

21 533.5 MEMBERSHIP.

22 The membership of a credit union consists of those
23 persons in the common bond, duly admitted, who have
24 paid any required one-time or periodic membership fee,
25 or both, have subscribed to one or more shares, and
26 have complied with the other requirements specified by
27 the articles of incorporation and bylaws. To continue
28 membership, a member must comply with any changes in
29 the par value of the share. Credit union organization
30 shall be available to groups of individuals who have a
31 common bond of association such as, but not limited
32 to, occupation, common employer, or residence within
33 specified geographic boundaries. Changes in the
34 common bond may be made by the board of directors. If
35 adopted as a policy by the board of directors of a
36 credit union, members who cease to meet qualifications
37 of membership may retain their credit union membership
38 and all membership privileges. Organizations,
39 incorporated or otherwise, may be members.

40 Sec. ____ . Section 533.9, unnumbered paragraph 1,
41 Code 1987, is amended to read as follows:

42 Within five days following the organization meeting
43 and each annual meeting the directors shall elect from
44 their own number a chairperson of the board, a vice
45 chairperson, ~~president and a secretary, of whom the~~
46 ~~last two may be the same individual, and also a chief~~
47 financial officer whose title shall be designated by
48 the board of directors, a credit committee of not less
49 than three members, and an auditing committee of not
less than three members, and may also elect alternate

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1 members of the credit committee. The board may
2 appoint an executive committee to act on its behalf
3 when designated for that purpose. It shall be the
4 duty of the The directors to have general management
5 of the affairs of the credit union, ~~particularly to.~~
6 Sec. _____. Section 533.9, subsections 1 through 7,
7 and unnumbered paragraph 2, Code 1987, are amended by
8 striking the subsections and unnumbered paragraph.

9 Sec. _____. Section 533.11, subsections 1 and 2,
10 Code 1987, are amended to read as follows:

11 1. Make or cause to be made an examination of the
12 affairs of the credit union at least ~~quarterly~~ semi-
13 annually, including an audit of its books and, ~~in the~~
14 ~~event said~~ if the committee feels such action to be
15 necessary, it shall call the members together
16 thereafter after the audit and submit to them its
17 report.

18 2. Make or cause to be made an annual ~~audit and~~
19 ~~report and submit the same~~ it at the annual meeting of
20 the members.

21 Sec. _____. Section 533.34, subsection 1, Code 1987,
22 is amended to read as follows:

23 1. A state credit union may convert into a federal
24 credit union with the approval of the administrator of
25 the national credit union administration and by the
26 affirmative vote of a majority of the credit union's
27 members ~~eligible to who vote on the proposal~~. This
28 vote, if taken, shall be at a ~~special~~ meeting called
29 for that purpose and shall be in the manner prescribed
30 by the bylaws. ~~Any member eligible to vote and not~~
31 ~~present at the meeting may, within twenty days after~~
32 ~~the date on which the meeting was held, vote in favor~~
33 ~~of conversion by signing a statement in a form~~
34 ~~satisfactory to the superintendent. This vote shall~~
35 ~~have the same force and effect as if cast at the~~
36 ~~meeting.~~

37 Sec. _____. Section 533.38, unnumbered paragraph 1,
38 Code 1987, is amended to read as follows:

39 A corporate central credit union may be
40 established. Credit unions organized under this
41 chapter, the Federal Credit Union Act, or any other
42 credit union act and credit union organizations may be
43 members. In addition, regulated financial
44 institutions, nonprofit organizations, and cooperative
45 organizations may be members to the extent and manner
46 provided for in the bylaws of the corporate central
47 credit union. The corporate central credit union
48 shall have all the powers, restrictions, and
49 obligations imposed upon, or granted to a credit union
50 under this chapter, except that the corporate central

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credit union may exercise any of the following additional powers subject to the adoption of rules by the superintendent pursuant to chapter 17A and with the prior written approval of the superintendent:

Sec. ____ . NEW SECTION. 533.48 INVESTMENT IN BANKS OR SAVINGS AND LOAN ASSOCIATIONS.

1. INVESTMENTS IN BANKS. A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a bank.

2. INVESTMENT IN SAVINGS AND LOANS. A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a state savings and loan association.

3. FINDINGS REQUIRED. The superintendent shall not grant an approval under subsection 1 or 2, except after making one of the following findings:

a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.

b. Based upon a preponderance of the evidence presented, the proposed investment would have an anticompetitive effect as described in paragraph "a", but other factors, specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.

4. COMPETITION PRESERVED. The subsequent liquidation of a bank or state savings and loan association whose shares are acquired under this section shall not prevent the subsequent incorporation of another bank or savings and loan association in the same community, and the superintendent of banking shall not find the liquidation of such a bank to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, and the superintendent of savings and loan associations shall not find the liquidation of such a savings and loan association to be grounds for disapproving the incorporation of another savings and loan association in the same community under chapter 534.

Sec. ____ . Section 534.103, subsection 6, Code 1987, is amended to read as follows:

6. LIMITED TRUST POWERS. Associations An association incorporated under this chapter may act as trustee for trusts which are created or organized in the United States, and which form part of a stock

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1 bonus, pension, or profit sharing plan which qualifies
 2 for special tax treatment under section 401(d) or
 3 subsection (a) of section 408 of the Internal Revenue
 4 Code of 1954, as amended, or as trustee with no active
 5 fiduciary duties, if the funds of such the trust are
 6 invested only in savings accounts or deposits in such
 7 the association or in obligations or securities issued
 8 by such the association. All funds held in such a
 9 fiduciary capacity by ~~any-such~~ an association may be
 10 commingled for appropriate purposes of investment, but
 11 individual records shall be kept by the fiduciary for
 12 each participant and shall show in proper detail all
 13 transactions engaged in under the authority of this
 14 subsection.

15 The administrator superintendent is authorized to
 16 grant by special permit to an association the right to
 17 act as trustee, executor, administrator, guardian, or
 18 in any other fiduciary capacity. However, this
 19 authority is available only for periods of time when
 20 federally chartered savings and loan associations
 21 operating in this state are granted similar authority,
 22 and the state authorization is subject to the rights
 23 and limitations established in rules adopted by the
 24 superintendent, which shall be consistent with the
 25 rights and limitations for federally chartered
 26 associations engaged in this type of activity.

27 Sec. ____ . Section 534.107, Code 1987, is amended
 28 to read as follows:

29 534.107 EXPENDITURES-AND OPERATING EXPENSES.

30 ~~All-expenses-for-management-in-conducting-the~~
 31 ~~affairs-of-an-association, excluding the cost of~~
 32 ~~borrowed-money, shall be paid from interest, service~~
 33 ~~charges-and-other-sources-of-profit. The said~~
 34 operating expense for of an association in any one
 35 year shall not exceed three percent for associations
 36 with assets not to exceed eight hundred thousand
 37 dollars-and-two-percent-for-these-over-such-amount-as
 38 shown-by-the-associations-in-their-last-annual-report
 39 of the association's average assets during that year
 40 without the written approval of the superintendent.

41 Sec. ____ . Section 534.111, unnumbered paragraph 2,
 42 Code 1987, is amended to read as follows:

43 Every association organized under ~~the-provisions-of~~
 44 this chapter ~~shall have and exercise~~ has all the
 45 rights, powers, and privileges ~~pertaining-to-savings~~
 46 ~~and-to-loans~~ not in conflict with the laws of this
 47 state, which are conferred upon federal savings and
 48 loan associations by the Home Owners' Loan Act of
 49 1933, ~~title-12, section-1464, United States Code 12~~
 50 U.S.C. § 1464, and conferred by regulations adopted by

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the federal home loan bank board and the federal savings and loan insurance corporation.

3 Sec. ____ . NEW SECTION. 534.112 REGULATORY
4 CAPITAL.

5 An association shall maintain regulatory capital in
6 the amount required by regulations of the federal
7 savings and loan insurance corporation. For the
8 purpose of this section, "regulatory capital" means
9 the sum of all reserve accounts (except specific
10 reserves established to offset actual or anticipated
11 losses), undivided profits, surplus, capital stock,
12 and any other nonwithdrawable accounts.

13 Sec. ____ . Section 534.207, subsection 1, paragraph
14 a, Code 1987, is amended to read as follows:

15 a. Loans secured by ~~first~~ liens or ~~first~~ claims on
16 residential real estate, participation interests in
17 groups of loans secured by ~~first~~ liens or ~~first~~ claims
18 on residential real estate, securities that are
19 secured by groups of loans secured by ~~first~~ liens or
20 ~~first~~ claims on residential real estate, or property
21 improvement loans for the making of improvements upon
22 residential real property, or a combination of these.

23 Sec. ____ . Section 534.209, Code 1987, is amended
24 by striking the section and inserting in lieu thereof
the following:

534.209 COMMERCIAL LENDING AND ACCOUNTS.

27 1. An association shall not hold more than forty
28 percent of its assets in commercial loans and consumer
29 loans as an annual average based on monthly
30 computations.

31 2. An association may accept a commercial NOW
32 account. For the purposes of this subsection, a
33 "commercial NOW account" is a NOW account, as
34 authorized by section 534.301, subsection 3, for a
35 commercial, corporate, business, or agricultural
36 entity.

37 3. For the purposes of this section, unless the
38 context otherwise requires:

39 a. "Commercial loan" means a loan to a person
40 borrowing money for a business or agricultural
41 purpose.

42 b. "Business purpose" means a loan to a for-profit
43 entity, or a for-profit activity, including but not
44 limited to a commercial, service, or industrial
45 enterprise carried on for profit, or an investment
46 activity.

47 c. "Agricultural purpose" means as defined in
48 section 535.13.

49 d. "Commercial loan" does not include a loan
secured by an interest in real estate for the purpose

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1 of financing the acquisition of real estate or the
 2 construction of improvements on real estate. In
 3 determining which loans are "commercial loans" the
 4 rules of construction stated in section 535.2,
 5 subsection 2, paragraph "b", apply.

6 4. For the purposes of this section, a lease of
 7 personal property is treated as a commercial loan if a
 8 loan to the lessee to acquire the property would have
 9 been a commercial loan.

10 Sec. ____ . NEW SECTION. 534.215 FALSE STATEMENT
 11 FOR CREDIT.

12 A person who knowingly does either of the following
 13 is guilty of a fraudulent practice:

14 1. Makes or causes to be made, directly or
 15 indirectly, a false statement in writing with the
 16 intent that the false statement shall be relied upon
 17 by an association for the purpose of procuring the
 18 delivery of property, the payment of cash, or the
 19 receipt of credit in any form, for the benefit of the
 20 person or of any other person in which the person is
 21 interested or for whom the person is acting.

22 2. Procures the delivery of property, the payment
 23 of cash, or the receipt of credit in any form, knowing
 24 that a false statement in writing has been made
 25 concerning the financial condition or means or ability
 26 to pay of the person, or any other person in which the
 27 person is interested or for whom the person is acting,
 28 if the person knew that the association relied or
 29 would rely upon the false written statement.

30 Sec. ____ . Section 534.307, subsection 2, Code
 31 1987, is amended by striking the subsection.

32 Sec. ____ . Section 534.505, subsection 4, Code
 33 1987, is amended by striking the subsection.

34 Sec. ____ . Section 534.702, Code 1987, is amended
 35 by adding the following new subsection:

36 NEW SUBSECTION. 9. Subject to the laws and
 37 regulations of the United States, a foreign
 38 association transacting business within this state is
 39 subject to the provisions of this chapter and is
 40 subject to the supervision of the superintendent as to
 41 its operations in this state. Notwithstanding
 42 subsection 2 of section 534.102, the term
 43 "association" or "state association" in this chapter
 44 shall include a foreign association and any foreign
 45 association which is a party to a plan of merger under
 46 section 534.511 as to its operations in this state."

47 2. Title page, line 2, by inserting after the
 48 word "purposes" the following: ", the powers of
 49 certain financial institutions, acts which constitute
 50 a fraudulent practice, imposing penalties,".

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1 3. By renumbering as necessary.

H-4224 FILED MAY 5, 1987

BY PARKER of Jasper
 SWARTZ of Marshall
 RENKEN of Grundy
 HUMMEL of Benton

HOUSE FILE 658

H-4236

1 Amend the Senate amendment, H-3906, to House File
2 658, as passed by the House, as follows:
3 "1. Page 1, by striking lines 1 through 6
4 and inserting the following:
5 "Amend House File 658 as passed by the House as
6 follows:
7 1. Page 8, line 32, by striking the word "reasonable"
8 and inserting in lieu thereof the word "reasonable".
9 2. Page 8, line 35, by striking the word "appropriate"
10 and inserting in lieu thereof the word "appropriate".
11 3. Page 9, by inserting after line 9 the following:
12 "Sec. ____ . Section 524.803, subsection 1, Code
13 1987, is amended by adding the following new lettered
14 paragraph:
15 NEW LETTERED PARAGRAPH. f. Organize, acquire, or
16 invest in a subsidiary for the purpose of engaging in
17 any one or more of the following, subject to the prior
18 approval of the superintendent:
19 (1) Nondepository activities that a state bank is
20 authorized to engage in directly under this chapter.
21 (2) Any activity that a bank service corporation
22 is authorized to engage in under state or federal law
23 or regulation.
24 (3) Any activity authorized pursuant to section
25 524.825.
26 Sec. ____ . NEW SECTION. 524.825 SECURITIES
27 ACTIVITIES.
28 Subject to the prior approval of the
29 superintendent, a state bank or a subsidiary of a
30 state bank organized or acquired pursuant to section
31 524.803, subsection 1, paragraph "f" may engage in
32 directly, or may organize, acquire, or invest in a
33 subsidiary for the purpose of engaging in securities
34 activities and any aspect of the securities industry,
35 including, but not limited to, any of the following:
36 1. Issuing, underwriting, selling, or distributing
37 stocks, bonds, debentures, notes, interest in mutual
38 funds or money-market-type mutual funds, or other
39 securities.
40 2. Organizing, sponsoring, and operating one or
41 more mutual funds.
42 3. Acting as a securities broker-dealer licensed
43 under chapter 502. The business relating to
44 securities shall be conducted through, and in the name
45 of, the broker-dealer. The requirements of chapter
46 502 apply to any business of the broker-dealer
47 transacted in this state.
48 A subsidiary engaging in activities authorized by
49 this section may also engage in any other authorized
50 activities under section 524.803, subsection 1,

HOUSE FILE 658

H-4236

1 Amend the Senate amendment, H-3906, to House File
2 658, as passed by the House, as follows:

3 "1. Page 1, by striking lines 1 through 6
4 and inserting the following:

5 "Amend House File 658 as passed by the House as
6 follows:

7 1. Page 8, line 32, by striking the word "reasonable"
8 and inserting in lieu thereof the word "reasonable".

9 2. Page 8, line 35, by striking the word "appropriate"
10 and inserting in lieu thereof the word "appropriate".

11 3. Page 9, by inserting after line 9 the following:

12 "Sec. ____ . Section 524.803, subsection 1, Code
13 1987, is amended by adding the following new lettered
14 paragraph:

15 NEW LETTERED PARAGRAPH. f. Organize, acquire, or
16 invest in a subsidiary for the purpose of engaging in
17 any one or more of the following, subject to the prior
18 approval of the superintendent:

19 (1) Nondepository activities that a state bank is
20 authorized to engage in directly under this chapter.

21 (2) Any activity that a bank service corporation
22 is authorized to engage in under state or federal law
23 or regulation.

24 (3) Any activity authorized pursuant to section
25 524.825.

26 Sec. ____ . NEW SECTION. 524.825 SECURITIES
27 ACTIVITIES.

28 Subject to the prior approval of the
29 superintendent, a state bank or a subsidiary of a
30 state bank organized or acquired pursuant to section
31 524.803, subsection 1, paragraph "f" may engage in
32 directly, or may organize, acquire, or invest in a
33 subsidiary for the purpose of engaging in securities
34 activities and any aspect of the securities industry,
35 including, but not limited to, any of the following:

36 1. Issuing, underwriting, selling, or distributing
37 stocks, bonds, debentures, notes, interest in mutual
38 funds or money-market-type mutual funds, or other
39 securities.

40 2. Organizing, sponsoring, and operating one or
41 more mutual funds.

42 3. Acting as a securities broker-dealer licensed
43 under chapter 502. The business relating to
44 securities shall be conducted through, and in the name
45 of, the broker-dealer. The requirements of chapter
46 502 apply to any business of the broker-dealer
47 transacted in this state.

48 A subsidiary engaging in activities authorized by
49 this section may also engage in any other authorized
50 activities under section 524.803, subsection 1,

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provided that a state bank's investment in such shares does not exceed the limitation set forth in this section for the underlying instrument.

Sec. ____ . Section 524.901, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A state bank may, in the exercise of the powers granted in this chapter, purchase cash value life insurance contracts which may include provisions for the lump sum payment of premiums and which may include insurance against the loss of the lump sum payment. The cash value life insurance contracts purchased from any one company shall not exceed twenty percent of capital and surplus of the state bank.

Sec. ____ . Section 533.4, subsection 5, Code 1987, is amended by adding the following new paragraph.

NEW PARAGRAPH. i. Commercial paper issued by United States corporations as defined by rule.

Sec. ____ . Section 533.4, subsection 7, Code 1987, is amended to read as follows:

7. Assess fines as may be provided by the bylaws ~~for-failure-to-make-repayments-on-loans-and-payments on-shares-when-due; provided no such fine shall exceed one-percent-per-month-on-amounts-in-arrears-or-five cents, whichever-is-the-larger.~~

Sec. ____ . Section 533.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

533.5 MEMBERSHIP.

The membership of a credit union consists of those persons in the common bond, duly admitted, who have paid any required one-time or periodic membership fee, or both, have subscribed to one or more shares, and have complied with the other requirements specified by the articles of incorporation and bylaws. To continue membership, a member must comply with any changes in the par value of the share. Credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries. Changes in the common bond may be made by the board of directors. If adopted as a policy by the board of directors of a credit union, members who cease to meet qualifications of membership may retain their credit union membership and all membership privileges. Organizations, incorporated or otherwise, may be members.

Sec. ____ . Section 533.9, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Within five days following the organization meeting

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1 and each annual meeting the directors shall elect from
 2 their own number a chairperson of the board a vice
 3 chairperson, president and a secretary, of whom the
 4 ~~last two may be the same individually and also a chief~~
 5 ~~financial officer whose title shall be designated by~~
 6 ~~the board of directors, a credit committee of no less~~
 7 ~~than three members, and an auditing committee of not~~
 8 ~~less than three members, and may also elect alternate~~
 9 ~~members of the credit committee. The board may~~
 10 ~~appoint an executive committee to act on its behalf~~
 11 ~~when designated for that purpose. It shall be the~~
 12 ~~duty of the directors to have general management~~
 13 ~~of the affairs of the credit union particularly~~
 14 Sec. _____. Section 533.9, subsections 1 through 7,
 15 and unnumbered paragraph 2, Code 1987, are amended by
 16 striking the subsections and unnumbered paragraph.

17 Sec. _____. Section 533.11, subsections 1 and 2,
 18 Code 1987, are amended to read as follows:
 19 1. Make or cause to be made an examination of the
 20 affairs of the credit union at least quarterly semi-
 21 annually, including an audit of its books and, in the
 22 event said if the committee feels such action to be
 23 necessary, it shall call the members together
 24 thereafter after the audit and submit to them its
 25 report.

26 2. Make or cause to be made an annual audit and
 27 report and submit the same it at the annual meeting of
 28 the members.

29 Sec. _____. Section 533.34, subsection 1, Code 1987,
 30 is amended to read as follows:

31 1. A state credit union may convert into a federal
 32 credit union with the approval of the administrator of
 33 the national credit union administration and by the
 34 affirmative vote of a majority of the credit union's
 35 members eligible to who vote on the proposal. This
 36 vote, if taken, shall be at a special meeting called
 37 for that purpose and shall be in the manner prescribed
 38 by the bylaws. Any member eligible to vote and not
 39 present at the meeting may, within twenty days after
 40 the date on which the meeting was held, vote in favor
 41 of conversion by signing a statement in a form
 42 satisfactory to the superintendent. This vote shall
 43 have the same force and effect as if cast at the
 44 meeting.

45 Sec. _____. Section 533.38, unnumbered paragraph 1,
 46 Code 1987, is amended to read as follows:

47 A corporate central credit union may be
 48 established. Credit unions organized under this
 49 chapter, the Federal Credit Union Act, or any other
 50 credit union act and credit union organizations may be

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members. In addition, regulated financial institutions, nonprofit organizations, and cooperative organizations may be members to the extent and manner provided for in the bylaws of the corporate central credit union. The corporate central credit union shall have all the powers, restrictions, and obligations imposed upon, or granted to a credit union under this chapter, except that the corporate central credit union may exercise any of the following additional powers subject to the adoption of rules by the superintendent pursuant to chapter 17A and with the prior written approval of the superintendent:

13 Sec. ____ . NEW SECTION. 533.48 INVESTMENT IN
14 BANKS OR SAVINGS AND LOAN ASSOCIATIONS.

15 1. INVESTMENTS IN BANKS. A credit union may, with
16 the prior approval of the superintendent, invest in
17 the capital stock, obligations, or other securities of
18 a bank.

19 2. INVESTMENT IN SAVINGS AND LOANS. A credit
20 union may, with the prior approval of the
21 superintendent, invest in the capital stock,
22 obligations, or other securities of a state savings
23 and loan association.

24 3. FINDINGS REQUIRED. The superintendent shall
not grant an approval under subsection 1 or 2, except
after making one of the following findings:

27 a. Based upon a preponderance of the evidence
28 presented, the proposed investment will not have the
29 immediate effect of significantly reducing competition
30 between depository financial institutions located in
31 the same community as the institution whose shares
32 would be acquired.

33 b. Based upon a preponderance of the evidence
34 presented, the proposed investment would have an
35 anticompetitive effect as described in paragraph "a",
36 but other factors, specifically cited, outweigh the
37 anticompetitive effect so that there would be a net
38 public benefit as a result of the investment.

39 4. COMPETITION PRESERVED. The subsequent
40 liquidation of a bank or state savings and loan
41 association whose shares are acquired under this
42 section shall not prevent the subsequent incorporation
43 of another bank or savings and loan association in the
44 same community, and the superintendent of banking
45 shall not find the liquidation of such a bank to be
46 grounds for disapproving the incorporation of another
47 bank in the same community under section 524.305, and
48 the superintendent of savings and loan associations
49 shall not find the liquidation of such a savings and
loan association to be grounds for disapproving the

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1 incorporation of another savings and loan association
2 in the same community under chapter 534.

3 Sec. ____ . Section 534.103, subsection 6, Code
4 1987, is amended to read as follows:

5 6. LIMITED TRUST POWERS. Associations An
6 association incorporated under this chapter may act as
7 trustee for trusts which are created or organized in
8 the United States, and which form part of a stock
9 bonus, pension, or profit sharing plan which qualifies
10 for special tax treatment under section 401(d) or
11 subsection (a) of section 408 of the Internal Revenue
12 Code of 1954, as amended, or as trustee with no active
13 fiduciary duties, if the funds of such the trust are
14 invested only in savings accounts or deposits in such
15 the association or in obligations or securities issued
16 by such the association. All funds held in such a
17 fiduciary capacity by any-such an association may be
18 commingled for appropriate purposes of investment, but
19 individual records shall be kept by the fiduciary for
20 each participant and shall show in proper detail all
21 transactions engaged in under the authority of this
22 subsection.

23 The administrator superintendent is authorized to
24 grant by special permit to an association the right to
25 act as trustee, executor, administrator, guardian, or
26 in any other fiduciary capacity. However, this
27 authority is available only for periods of time when
28 federally chartered savings and loan associations
29 operating in this state are granted similar authority,
30 and the state authorization is subject to the rights
31 and limitations established in rules adopted by the
32 superintendent, which shall be consistent with the
33 rights and limitations for federally chartered
34 associations engaged in this type of activity.

35 Sec. ____ . Section 534.107, Code 1987, is amended
36 to read as follows:

37 534.107 EXPENDITURES-AND OPERATING EXPENSES.

38 All-expenses-for-management-in-conducting-the
39 affairs-of-an-association,-excluding-the-cost-of
40 borrowed-money,-shall-be-paid-from-interest,-service
41 charges-and-other-sources-of-profit. The said
42 operating expense for of an association in any one
43 year shall not exceed three percent for-associations
44 with-assets-not-to-exceed-eight-hundred-thousand
45 dollars-and-two-percent-for-those-over-such-amount-as
46 shown-by-the-associations-in-their-last-annual-report
47 of the association's average assets during that year
48 without the written approval of the superintendent.

49 Sec. ____ . Section 534.111, unnumbered paragraph 2,
50 Code 1987, is amended to read as follows:

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Every association organized under the provisions of this chapter shall have and exercise ~~has~~ all the rights, powers, and privileges pertaining to savings and to loans not in conflict with the laws of this state, which are conferred upon federal savings and loan associations by the Home Owners' Loan Act of 1933, title 127-section 1464, United States Code 12 U.S.C. § 1464, and conferred by regulations adopted by the federal home loan bank board and the federal savings and loan insurance corporation.

11 Sec. ____ . NEW SECTION. 534.112 REGULATORY
12 CAPITAL.

13 An association shall maintain regulatory capital in
14 the amount required by regulations of the federal
15 savings and loan insurance corporation. For the
16 purpose of this section, "regulatory capital" means
17 the sum of all reserve accounts (except specific
18 reserves established to offset actual or anticipated
19 losses), undivided profits, surplus, capital stock,
20 and any other nonwithdrawable accounts.

21 Sec. ____ . Section 534.207, subsection 1, paragraph
22 a, Code 1987, is amended to read as follows:

23 a. Loans secured by first liens or first claims on
24 residential real estate, participation interests in
25 groups of loans secured by first liens or first claims
26 on residential real estate, securities that are
27 secured by groups of loans secured by first liens or
28 first claims on residential real estate, or property
29 improvement loans for the making of improvements upon
30 residential real property, or a combination of these.

31 Sec. ____ . Section 534.209, Code 1987, is amended
32 by striking the section and inserting in lieu thereof
33 the following:

34 534.209 COMMERCIAL LENDING AND ACCOUNTS.

35 1. An association shall not hold more than forty
36 percent of its assets in commercial loans and consumer
37 loans as an annual average based on monthly
38 computations.

39 2. An association may accept a commercial NOW
40 account. For the purposes of this subsection, a
41 "commercial NOW account" is a NOW account, as
42 authorized by section 534.301, subsection 3, for a
43 commercial, corporate, business, or agricultural
44 entity.

45 3. For the purposes of this section, unless the
46 context otherwise requires:

47 a. "Commercial loan" means a loan to a person
48 borrowing money for a business or agricultural
49 purpose.

b. "Business purpose" means a loan to a for-profit

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Page Eight.

1 entity, or a for-profit activity, including but not
 2 limited to a commercial, service, or industrial
 3 enterprise carried on for profit, or an investment
 4 activity.

5 c. "Agricultural purpose" means as defined in
 6 section 535.13.

7 d. "Commercial loan" does not include a loan
 8 secured by an interest in real estate for the purpose
 9 of financing the acquisition of real estate or the
 10 construction of improvements on real estate. In
 11 determining which loans are "commercial loans" the
 12 rules of construction stated in section 535.2,
 13 subsection 2, paragraph "b", apply.

14 4. For the purposes of this section, a lease of
 15 personal property is treated as a commercial loan if a
 16 loan to the lessee to acquire the property would have
 17 been a commercial loan.

18 Sec. ____ . NEW SECTION. 534.215 FALSE STATEMENT
 19 FOR CREDIT.

20 A person who knowingly does either of the following
 21 is guilty of a fraudulent practice:

22 1. Makes or causes to be made, directly or
 23 indirectly, a false statement in writing with the
 24 intent that the false statement shall be relied upon
 25 by an association for the purpose of procuring the
 26 delivery of property, the payment of cash, or the
 27 receipt of credit in any form, for the benefit of the
 28 person or of any other person in which the person is
 29 interested or for whom the person is acting.

30 2. Procures the delivery of property, the payment
 31 of cash, or the receipt of credit in any form, knowing
 32 that a false statement in writing has been made
 33 concerning the financial condition or means or ability
 34 to pay of the person, or any other person in which the
 35 person is interested or for whom the person is acting,
 36 if the person knew that the association relied or
 37 would rely upon the false written statement.

38 Sec. ____ . Section 534.307, subsection 2, Code
 39 1987, is amended by striking the subsection.

40 Sec. ____ . Section 534.505, subsection 4, Code
 41 1987, is amended by striking the subsection.

42 Sec. ____ . Section 534.702, Code 1987, is amended
 43 by adding the following new subsection:

44 NEW SUBSECTION. 9. Subject to the laws and
 45 regulations of the United States, a foreign
 46 association transacting business within this state is
 47 subject to the provisions of this chapter and is
 48 subject to the supervision of the superintendent as to
 49 its operations in this state. Notwithstanding
 50 subsection 2 of section 534.102, the term

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1 "association" or "state association" in this chapter
2 shall include a foreign association and any foreign
3 association which is a party to a plan of merger under
4 section 534.511 as to its operations in this state."

5 4. Title page, line 2, by inserting after the
6 word "purposes" the following: ", the powers of
7 certain financial institutions, acts which constitute
8 a fraudulent practice, imposing penalties,".

9 5. By renumbering as necessary."

BY PARKER of Jasper
SWARTZ of Marshall
RENKEN of Grundy
HUMMEL of Benton

H-4236 FILED MAY 6, 1987

Adopted 5/7/87 (p. 2140)

HOUSE FILE 658

H-4327

1 Amend the amendment, H-4236, to the Senate
2 amendment, H-3906, to House File 658 as passed by the
3 House as follows:

4 1. Page 9, by inserting after line 4 the
5 following:

6 "Sec. ____ . Section 537.2501, Code 1987, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 3. A creditor may contract for
9 and receive additional charges, including charges as a
10 result of default by the consumer, as agreed between
11 the consumer and the creditor with respect to a loan
12 under open-end credit pursuant to a credit card issued
13 by the creditor which entitles the cardholder to
14 purchase or lease goods or services from at least one
15 hundred persons not related to the card issuer."

H-4327 FILED MAY 7, 1987

LOST *(p. 2140)*

BY SHERZAN of Polk
SCHNEKLOTH of Scott

HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 658

4069

1 Amend the Senate amendment, H-3906, to House File
2 658, as passed by the House, as follows:

3 "1. Page 1, by striking lines 1 through 6
4 and inserting the following:

5 "Amend House File 658 as passed by the House as
6 follows:

7 1. Page 8, line 32, by striking the word "reasonable"
8 and inserting in lieu thereof the word "reasonable".

9 2. Page 8, line 35, by striking the word "appropriate"
10 and inserting in lieu thereof the word "appropriate".

11 3. Page 9, by inserting after line 9 the following:

12 "Sec. ____ . Section 524.803, subsection 1, Code
13 1987, is amended by adding the following new lettered
14 paragraph:

15 NEW LETTERED PARAGRAPH. f. Organize, acquire, or
16 invest in a subsidiary for the purpose of engaging in
17 any one or more of the following, subject to the prior
18 approval of the superintendent:

19 (1) Nondepository activities that a state bank is
20 authorized to engage in directly under this chapter.

21 (2) Any activity that a bank service corporation
22 is authorized to engage in under state or federal law
23 or regulation.

24 (3) Any activity authorized pursuant to section
25 524.825.

26 Sec. ____ . NEW SECTION. 524.825 SECURITIES
27 ACTIVITIES.

28 Subject to the prior approval of the
29 superintendent, a state bank or a subsidiary of a
30 state bank organized or acquired pursuant to section
31 524.803, subsection 1, paragraph "f" may engage in
32 directly, or may organize, acquire, or invest in a
33 subsidiary for the purpose of engaging in securities
34 activities and any aspect of the securities industry,
35 including, but not limited to, any of the following:

36 1. Issuing, underwriting, selling, or distributing
37 stocks, bonds, debentures, notes, interest in mutual
38 funds or money-market-type mutual funds, or other
39 securities.

40 2. Organizing, sponsoring, and operating one or
41 more mutual funds.

42 3. Acting as a securities broker-dealer licensed
43 under chapter 502. The business relating to
44 securities shall be conducted through, and in the name
45 of, the broker-dealer. The requirements of chapter
46 502 apply to any business of the broker-dealer
47 transacted in this state.

48 A subsidiary engaging in activities authorized by
49 this section may also engage in any other authorized
50 activities under section 524.803, subsection 1,

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1 paragraph "f".

2 Sec. ____ . Section 524.901, subsection 1, Code 1987,
3 is amended by adding the following new lettered
4 paragraph:

5 NEW LETTERED PARAGRAPH. f. Futures, forward, and
6 standby contracts to purchase and sell any of the
7 instruments eligible for state banks' purchase and
8 sale, subject to the prior approval of the
9 superintendent and pursuant to applicable federal laws
10 and regulations governing such contracts. Purchase
11 and sale of such contracts shall be conducted in
12 accordance with safe and sound banking practices and
13 with levels of the activity being reasonably related
14 to the state bank's business needs and capacity to
15 fulfill its obligations under the contracts.

16 Sec. ____ . Section 524.901, subsection 1, Code 1987,
17 is amended by adding the following new lettered
18 paragraph:

19 NEW LETTERED PARAGRAPH. g. Bonds and securities
20 which are authorized investments under paragraph "a",
21 "b", "c", or "d" include investments in an investment
22 company or investment trust registered under the
23 Investment Company Act of 1940, 15 U.S.C. § 80a, the
24 portfolio of which is limited to the United States
25 government obligations described in paragraph "a",
26 "b", "c", or "d" and to repurchase agreements fully
27 collateralized by the United States government
28 obligations described in paragraph "a", "b", "c", or
29 "d", if the investment company or investment trust
30 takes delivery of the collateral either directly or
31 through an authorized custodian.

32 Sec. ____ . Section 524.901, subsection 3, paragraph
33 d, Code 1987, is amended to read as follows:

34 d. Shares in a corporation which the state bank is
35 authorized to acquire and hold pursuant to section
36 524.803, subsection 1, paragraphs "c", "d", and "e",
37 and "f" and section 524.825.

38 Sec. ____ . Section 524.901, subsection 3, Code
39 1987, is amended by adding the following new lettered
40 paragraphs:

41 NEW LETTERED PARAGRAPH. i. Shares of investment
42 companies, up to a maximum of twenty percent of
43 capital and surplus of the state bank in any one
44 company, if the portfolio of such an investment
45 company consists wholly of investments in which the
46 state bank could invest directly without limitation
47 pursuant to this section.

48 NEW LETTERED PARAGRAPH. j. Shares of investment
49 companies whose portfolios contain investments which
50 are subject to limitations pursuant to this section,

1 provided that a state bank's investment in such shares
2 does not exceed the limitation set forth in this
3 section for the underlying instrument.

4 Sec. _____. Section 524.901, Code 1987, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 6. A state bank may, in the
7 exercise of the powers granted in this chapter,
8 purchase cash value life insurance contracts which may
9 include provisions for the lump sum payment of
10 premiums and which may include insurance against the
11 loss of the lump sum payment. The cash value life
12 insurance contracts purchased from any one company
13 shall not exceed twenty percent of capital and surplus
14 of the state bank.

15 Sec. _____. Section 533.4, subsection 5, Code 1987,
16 is amended by adding the following new paragraph.

17 NEW PARAGRAPH. i. Commercial paper issued by
18 United States corporations as defined by rule.

19 Sec. _____. Section 533.4, subsection 7, Code 1987,
20 is amended to read as follows:

21 7. Assess fines as may be provided by the bylaws
22 ~~for failure to make repayments on loans and payments~~
23 ~~on shares when due, provided no such fine shall exceed~~
24 ~~one percent per month on amounts in arrears or five~~
25 ~~cents, whichever is the larger.~~

26 Sec. _____. Section 533.5, Code 1987, is amended by
27 striking the section and inserting in lieu thereof the
28 following:

29 533.5 MEMBERSHIP.

30 The membership of a credit union consists of those
31 persons in the common bond, duly admitted, who have
32 paid any required one-time or periodic membership fee,
33 or both, have subscribed to one or more shares, and
34 have complied with the other requirements specified by
35 the articles of incorporation and bylaws. To continue
36 membership, a member must comply with any changes in
37 the par value of the share. Credit union organization
38 shall be available to groups of individuals who have a
39 common bond of association such as, but not limited
40 to, occupation, common employer, or residence within
41 specified geographic boundaries. Changes in the
42 common bond may be made by the board of directors. If
43 adopted as a policy by the board of directors of a
44 credit union, members who cease to meet qualifications
45 of membership may retain their credit union membership
46 and all membership privileges. Organizations,
47 incorporated or otherwise, may be members.

48 Sec. _____. Section 533.9, unnumbered paragraph 1,
49 Code 1987, is amended to read as follows:

50 Within five days following the organization meeting

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1 and each annual meeting the directors shall elect from
2 their own number a chairperson of the board, a vice
3 chairperson, ~~president and a secretary, of whom the~~
4 ~~last two may be the same individual, and also a chief~~
5 financial officer whose title shall be designated by
6 the board of directors, a credit committee of not less
7 than three members, and an auditing committee of not
8 less than three members, and may also elect alternate
9 members of the credit committee. The board may
10 appoint an executive committee to act on its behalf
11 when designated for that purpose. It shall be the
12 duty of the The directors to have general management
13 of the affairs of the credit union, ~~particularly to.~~

14 Sec. _____. Section 533.9, subsections 1 through 7,
15 and unnumbered paragraph 2, Code 1987, are amended by
16 striking the subsections and unnumbered paragraph.

17 Sec. _____. Section 533.11, subsections 1 and 2,
18 Code 1987, are amended to read as follows:

19 1. Make or cause to be made an examination of the
20 affairs of the credit union at least ~~quarterly~~ semi-
21 annually, including an audit of its books and, ~~in the~~
22 ~~event said~~ if the committee feels such action to be
23 necessary, it shall call the members together
24 thereafter after the audit and submit to them its
25 report.

26 2. Make or cause to be made an annual audit and
27 report and submit ~~the same~~ it at the annual meeting of
28 the members.

29 Sec. _____. Section 533.34, subsection 1, Code 1987,
30 is amended to read as follows:

31 1. A state credit union may convert into a federal
32 credit union with the approval of the administrator of
33 the national credit union administration and by the
34 affirmative vote of a majority of the credit union's
35 members ~~eligible to who vote on the proposal.~~ This
36 vote, if taken, shall be at a special meeting called
37 for that purpose and shall be in the manner prescribed
38 by the bylaws. ~~Any member eligible to vote and not~~
39 ~~present at the meeting may, within twenty days after~~
40 ~~the date on which the meeting was held, vote in favor~~
41 ~~of conversion by signing a statement in a form~~
42 ~~satisfactory to the superintendent. This vote shall~~
43 ~~have the same force and effect as if cast at the~~
44 meeting.

45 Sec. _____. Section 533.38, unnumbered paragraph 1,
46 Code 1987, is amended to read as follows:

47 A corporate central credit union may be
48 established. Credit unions organized under this
49 chapter, the Federal Credit Union Act, or any other
50 credit union act and credit union organizations may be

1 members. In addition, regulated financial
2 institutions, nonprofit organizations, and cooperative
3 organizations may be members to the extent and manner
4 provided for in the bylaws of the corporate central
5 credit union. The corporate central credit union
6 shall have all the powers, restrictions, and
7 obligations imposed upon, or granted to a credit union
8 under this chapter, except that the corporate central
9 credit union may exercise any of the following
10 additional powers subject to the adoption of rules by
11 the superintendent pursuant to chapter 17A and with
12 the prior written approval of the superintendent:

13 Sec. . NEW SECTION. 533.48 INVESTMENT IN
14 BANKS OR SAVINGS AND LOAN ASSOCIATIONS.

15 1. INVESTMENTS IN BANKS. A credit union may, with
16 the prior approval of the superintendent, invest in
17 the capital stock, obligations, or other securities of
18 a bank.

19 2. INVESTMENT IN SAVINGS AND LOANS. A credit
20 union may, with the prior approval of the
21 superintendent, invest in the capital stock,
22 obligations, or other securities of a state savings
23 and loan association.

24 3. FINDINGS REQUIRED. The superintendent shall
25 not grant an approval under subsection 1 or 2, except
26 after making one of the following findings:

27 a. Based upon a preponderance of the evidence
28 presented, the proposed investment will not have the
29 immediate effect of significantly reducing competition
30 between depository financial institutions located in
31 the same community as the institution whose shares
32 would be acquired.

33 b. Based upon a preponderance of the evidence
34 presented, the proposed investment would have an
35 anticompetitive effect as described in paragraph "a",
36 but other factors, specifically cited, outweigh the
37 anticompetitive effect so that there would be a net
38 public benefit as a result of the investment.

39 4. COMPETITION PRESERVED. The subsequent
40 liquidation of a bank or state savings and loan
41 association whose shares are acquired under this
42 section shall not prevent the subsequent incorporation
43 of another bank or savings and loan association in the
44 same community, and the superintendent of banking
45 shall not find the liquidation of such a bank to be
46 grounds for disapproving the incorporation of another
47 bank in the same community under section 524.305, and
48 the superintendent of savings and loan associations
49 shall not find the liquidation of such a savings and
50 loan association to be grounds for disapproving the

1 incorporation of another savings and loan association
2 in the same community under chapter 534.

3 Sec. _____. Section 534.103, subsection 6, Code
4 1987, is amended to read as follows:

5 6. LIMITED TRUST POWERS. Associations An
6 association incorporated under this chapter may act as
7 trustee for trusts which are created or organized in
8 the United States, and which form part of a stock
9 bonus, pension, or profit sharing plan which qualifies
10 for special tax treatment under section 401(d) or
11 subsection (a) of section 408 of the Internal Revenue
12 Code of 1954, as amended, or as trustee with no active
13 fiduciary duties, if the funds of such the trust are
14 invested only in savings accounts or deposits in such
15 the association or in obligations or securities issued
16 by such the association. All funds held in such a
17 fiduciary capacity by any-such an association may be
18 commingled for appropriate purposes of investment, but
19 individual records shall be kept by the fiduciary for
20 each participant and shall show in proper detail all
21 transactions engaged in under the authority of this
22 subsection.

23 The administrator superintendent is authorized to
24 grant by special permit to an association the right to
25 act as trustee, executor, administrator, guardian, or
26 in any other fiduciary capacity. However, this
27 authority is available only for periods of time when
28 federally chartered savings and loan associations
29 operating in this state are granted similar authority,
30 and the state authorization is subject to the rights
31 and limitations established in rules adopted by the
32 superintendent, which shall be consistent with the
33 rights and limitations for federally chartered
34 associations engaged in this type of activity.

35 Sec. _____. Section 534.107, Code 1987, is amended
36 to read as follows:

37 534.107 EXPENDITURES-AND OPERATING EXPENSES.

38 ~~All-expenses-for-management-in-conducting-the~~
39 ~~affairs-of-an-association,-excluding-the-cost-of~~
40 ~~borrowed-money,-shall-be-paid-from-interest,-service~~
41 ~~charges-and-other-sources-of-profit.~~ The said
42 operating expense for of an association in any one
43 year shall not exceed three percent for-associations
44 with-assets-not-to-exceed-eight-hundred-thousand
45 dollars-and-two-percent-for-those-over-such-amount-as
46 shown-by-the-associations-in-their-last-annual-report
47 of the association's average assets during that year
48 without the written approval of the superintendent.

49 Sec. _____. Section 534.111, unnumbered paragraph 2,
50 Code 1987, is amended to read as follows:

1 Every association organized under the provisions of
2 this chapter shall have and exercise has all the
3 rights, powers, and privileges pertaining to savings
4 and to loans not in conflict with the laws of this
5 state, which are conferred upon federal savings and
6 loan associations by the Home Owners' Loan Act of
7 1933, title 12, section 1464, United States Code 12
8 U.S.C. § 1464, and conferred by regulations adopted by
9 the federal home loan bank board and the federal
10 savings and loan insurance corporation.

11 Sec. ____ . NEW SECTION. 534.112 REGULATORY
12 CAPITAL.

13 An association shall maintain regulatory capital in
14 the amount required by regulations of the federal
15 savings and loan insurance corporation. For the
16 purpose of this section, "regulatory capital" means
17 the sum of all reserve accounts (except specific
18 reserves established to offset actual or anticipated
19 losses), undivided profits, surplus, capital stock,
20 and any other nonwithdrawable accounts.

21 Sec. ____ . Section 534.207, subsection 1, paragraph
22 a, Code 1987, is amended to read as follows:

23 a. Loans secured by first liens or first claims on
24 residential real estate, participation interests in
25 groups of loans secured by first liens or first claims
26 on residential real estate, securities that are
27 secured by groups of loans secured by first liens or
28 first claims on residential real estate, or property
29 improvement loans for the making of improvements upon
30 residential real property, or a combination of these.

31 Sec. ____ . Section 534.209, Code 1987, is amended
32 by striking the section and inserting in lieu thereof
33 the following:

34 534.209 COMMERCIAL LENDING AND ACCOUNTS.

35 1. An association shall not hold more than forty
36 percent of its assets in commercial loans and consumer
37 loans as an annual average based on monthly
38 computations.

39 2. An association may accept a commercial NOW
40 account. For the purposes of this subsection, a
41 "commercial NOW account" is a NOW account, as
42 authorized by section 534.301, subsection 3, for a
43 commercial, corporate, business, or agricultural
44 entity.

45 3. For the purposes of this section, unless the
46 context otherwise requires:

47 a. "Commercial loan" means a loan to a person
48 borrowing money for a business or agricultural
49 purpose.

50 b. "Business purpose" means a loan to a for-profit

1 entity, or a for-profit activity, including but not
2 limited to a commercial, service, or industrial
3 enterprise carried on for profit, or an investment
4 activity.

5 c. "Agricultural purpose" means as defined in
6 section 535.13.

7 d. "Commercial loan" does not include a loan
8 secured by an interest in real estate for the purpose
9 of financing the acquisition of real estate or the
10 construction of improvements on real estate. In
11 determining which loans are "commercial loans" the
12 rules of construction stated in section 535.2,
13 subsection 2, paragraph "b", apply.

14 4. For the purposes of this section, a lease of
15 personal property is treated as a commercial loan if a
16 loan to the lessee to acquire the property would have
17 been a commercial loan.

18 Sec. ____ . NEW SECTION. 534.215 FALSE STATEMENT
19 FOR CREDIT.

20 A person who knowingly does either of the following
21 is guilty of a fraudulent practice:

22 1. Makes or causes to be made, directly or
23 indirectly, a false statement in writing with the
24 intent that the false statement shall be relied upon
25 by an association for the purpose of procuring the
26 delivery of property, the payment of cash, or the
27 receipt of credit in any form, for the benefit of the
28 person or of any other person in which the person is
29 interested or for whom the person is acting.

30 2. Procures the delivery of property, the payment
31 of cash, or the receipt of credit in any form, knowing
32 that a false statement in writing has been made
33 concerning the financial condition or means or ability
34 to pay of the person, or any other person in which the
35 person is interested or for whom the person is acting,
36 if the person knew that the association relied or
37 would rely upon the false written statement.

38 Sec. ____ . Section 534.307, subsection 2, Code
39 1987, is amended by striking the subsection.

40 Sec. ____ . Section 534.505, subsection 4, Code
41 1987, is amended by striking the subsection.

42 Sec. ____ . Section 534.702, Code 1987, is amended
43 by adding the following new subsection:

44 NEW SUBSECTION. 9. Subject to the laws and
45 regulations of the United States, a foreign
46 association transacting business within this state is
47 subject to the provisions of this chapter and is
48 subject to the supervision of the superintendent as to
49 its operations in this state. Notwithstanding
50 subsection 2 of section 534.102, the term

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1 "association" or "state association" in this chapter
2 shall include a foreign association and any foreign
3 association which is a party to a plan of merger under
4 section 534.511 as to its operations in this state."

5 4. Title page, line 2, by inserting after the
6 word "purposes" the following: ", the powers of
7 certain financial institutions, acts which constitute
8 a fraudulent practice, imposing penalties,".

9 5. By renumbering as necessary."

S-4069

Filed May 7, 1987

RECEIVED FROM THE HOUSE

Senate concurred 5/4/87 (p. 1827)

NSB 298

SMALL BUSINESS AND COMMERCE

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON SMALL BUSINESS AND COMMERCE BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the allocation of the state ceiling on private
2 activity bonds for tax exempt purposes and providing an
3 effective date.

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

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SUB COMMITTEE ASSIGNMENTS

CHAIR: *Parker*

COMMITTEE: *Small Business*

3/2/87

1 Section 1. Section 7C.2, subsection 1, Code 1987, is
2 amended to read as follows:

3 1. ~~Implement Act-section-621-of-the-Deficit-Reduction-Act~~
4 ~~of-19847-Pub.-L.-No.-98-3697~~ section 146 of the Internal
5 Revenue Code by providing a different formula for allocating
6 the state ceiling among the various governmental units which
7 are authorized to issue private activity bonds under the laws
8 of this state.

9 Sec. 2. Section 7C.3, Code 1987, is amended by striking
10 the section and inserting in lieu thereof the following:

11 7C.3 DEFINITIONS.

12 For the purposes of this chapter, unless the context
13 otherwise requires:

14 1. "Internal Revenue Code" means the Internal Revenue Code
15 as defined in section 422.3.

16 2. "State ceiling" means the same as defined in section
17 146(d) of the Internal Revenue Code.

18 3. "Bond" or "private activity bond" means a private
19 activity bond as defined in section 141 of the Internal
20 Revenue Code.

21 4. "Political subdivision" means a political subdivision,
22 authority, or department of the state which is authorized
23 under the laws of the state to issue private activity bonds.

24 5. "Carryforward project" means a carryforward project or
25 carryforward purpose as defined in section 146(f) of the
26 Internal Revenue Code.

27 6. "Allocation" means that portion of the state ceiling
28 which is allocated and certified to a political subdivision
29 hereby or by the governor's designee pursuant to section 7C.8
30 with respect to an issue of bonds for a specific project or
31 purpose.

32 7. "Governor's designee" means the person, department, or
33 authority designated by the governor to administer this
34 chapter.

35 8. "Qualified mortgage bond" means a qualified mortgage

1 bond as defined in section 143(a) of the Internal Revenue
2 Code.

3 9. "Qualified small issue bond" means a qualified small
4 issue bond as defined in section 144(a) of the Internal
5 Revenue Code.

6 10. "Qualified student loan bond" means a qualified
7 student loan bond as defined in section 144(b) of the Internal
8 Revenue Code.

9 11. "First-time farmer" means a first-time farmer as
10 defined in section 147(c) of the Internal Revenue Code.

11 Sec. 3. Section 7C.4, Code 1987, is amended to read as
12 follows:

13 7C.4 MAXIMUM AMOUNT OF BONDS.

14 The aggregate principal amount of bonds which are subject
15 to section 146 of the Internal Revenue Code which may be
16 issued by all issuers political subdivisions during a calendar
17 year shall not exceed the state ceiling for that calendar
18 year, except as provided in section 7C.8.

19 Sec. 4. NEW SECTION. 7C.4A ALLOCATION OF STATE CEILING.

20 For each calendar year, the state ceiling shall be
21 allocated among bonds issued for various purposes as follows:

22 1. Thirty percent of the state ceiling shall be allocated
23 solely to the Iowa finance authority for the following
24 purposes:

25 a. Issuing qualified mortgage bonds.

26 b. Reallocating the amount, or any portion thereof, to
27 another qualified political subdivision for the purpose of
28 issuing qualified mortgage bonds; or

29 c. Exchanging the allocation, or any portion thereof, for
30 the authority to issue mortgage credit certificates by
31 election under section 25(c) of the Internal Revenue Code.

32 However, at any time during the calendar year the executive
33 director of the Iowa finance authority may determine that a
34 lesser amount need be allocated to the Iowa finance authority
35 and on that date this lesser amount shall be the amount

1 allocated to the authority and the excess shall be allocated
2 under subsection 6.

3 2. Twelve percent of the state ceiling shall be allocated
4 to bonds issued to carry out programs established under
5 chapters 280A, 280B, and 280C. However, at any time during
6 the calendar year the director of the Iowa department of
7 economic development may determine that a lesser amount need
8 be allocated and on that date this lesser amount shall be the
9 amount allocated for those programs and the excess shall be
10 allocated under subsection 6.

11 3. Sixteen percent of the state ceiling shall be allocated
12 to qualified student loan bonds. However, at any time during
13 the calendar year the governor's designee, with the approval
14 of the Iowa student loan liquidity corporation, may determine
15 that a lesser amount need be allocated to qualified student
16 loan bonds and on that date the lesser amount shall be the
17 amount allocated for those bonds and the excess shall be
18 allocated under subsection 6.

19 4. Five percent of the state ceiling shall be allocated to
20 qualified small issue bonds issued for first-time farmers.
21 However, at any time during the calendar year the governor's
22 designee, with the approval of the Iowa agricultural
23 development authority may determine that a lesser amount need
24 be allocated to qualified small issue bonds for first-time
25 farmers and on that date this lesser amount shall be the
26 amount allocated for those bonds and the excess shall be
27 allocated under subsection 6.

28 5. During the period of January 1 through October 25, five
29 percent of the state ceiling shall be reserved for private
30 activity bonds issued by political subdivisions, the proceeds
31 of which are used by the issuing political subdivisions.

32 6. a. The amount of the state ceiling not allocated under
33 subsections 1 through 4, and after October 25, the amount of
34 the state ceiling reserved under subsection 5 and not
35 allocated, shall be allocated to all bonds requiring an

1 allocation under section 146 of the Internal Revenue Code
2 without priority for any type of bond over another, except as
3 otherwise provided in sections 7C.5 and 7C.11.

4 b. The population of the state shall be determined in
5 accordance with the Internal Revenue Code.

6 Sec. 5. Section 7C.5, Code 1987, is amended by striking
7 the section and inserting in lieu thereof the following:

8 7C.5 FORMULA FOR ALLOCATION.

9 Except as provided in section 7C.4A, subsections 1 through
10 4, the state ceiling shall be allocated among all political
11 subdivisions on a statewide basis on the basis of the
12 chronological orders of receipt by the governor's designee of
13 the applications described in section 7C.6 with respect to a
14 definitive issue of bonds, as determined by the day, hour, and
15 minute time-stamped on the application immediately upon
16 receipt by the governor's designee. However, for the period
17 January 1 through October 25 of each year, allocations to
18 bonds for which an amount of the state ceiling has been
19 reserved pursuant to section 7C.4A, subsection 5, shall be
20 made to the political subdivisions submitting the applications
21 first from the reserved amount until the reserved amount has
22 been fully allocated and then from the amount specified in
23 section 7C.4A, subsection 6.

24 Sec. 6. Section 7C.6, Code 1987, is amended by striking
25 the section and inserting in lieu thereof the following:

26 7C.6 APPLICATION FOR ALLOCATION.

27 A political subdivision which proposes to issue bonds for a
28 particular project or purpose for which an allocation of the
29 state ceiling is required and has not already been made under
30 section 7C.4A, subsections 1 through 4, must make an
31 application for allocation before issuance of the bonds. The
32 application may be made by the political subdivision or its
33 representative, the beneficiary of the project or purpose, or
34 by a person acting on behalf of the beneficiary. The
35 application shall be submitted to the governor's designee, in

1 the form prescribed by the governor's designee. The
2 application shall contain, where appropriate, the following
3 information:

4 1. Name and mailing address of the political subdivision.

5 2. Name of the chief elected or appointed executive
6 officer of the political subdivision.

7 3. If the project to be financed by the bonds is not to be
8 owned by the political subdivision, the name or description
9 and location by mailing address or other definitive
10 description of the project for which the allocation is
11 requested.

12 4. Name and mailing address of both the initial owner,
13 beneficiary, or operator of the project and an appropriate
14 person from whom information regarding the project or purpose
15 can be obtained.

16 5. Date of adoption by the governing body of the political
17 subdivision of any initial governmental act with respect to
18 the bonds.

19 6. Amount of the state ceiling which the political
20 subdivision is requesting be allocated to the bonds.

21 7. Other information which the governor's designee deems
22 reasonably required to carry out the purposes of this chapter.

23 Sec. 7. Section 7C.7, Code 1987, is amended to read as
24 follows:

25 7C.7 CERTIFICATION OF ALLOCATION.

26 Upon the receipt of a completed application pursuant to
27 section 7C.6, the governor's designee shall promptly certify
28 to the ~~issuer~~ political subdivision the amount of the state
29 ceiling allocated to the bonds for the purpose or project with
30 respect to which the application was submitted. The
31 allocation shall remain valid for ~~ninety~~ thirty days from the
32 date the allocation ~~is~~ was certified, subject to the following
33 conditions:

34 1. If the bonds are issued and delivered for the purpose
35 or project within the ~~ninety-day~~ thirty-day period or the

1 forty-day extension period provided in subsection 2, the
2 issuer political subdivision or the-issuer's-attorney its
3 representative shall within ten days following the issuance
4 and delivery of the bonds notify or not later than October 25
5 of that year, if the bonds were issued and delivered on or
6 before that date, file with the governor's designee, in such
7 the form or manner as the governor's designee may prescribe, a
8 notification of the date of issuance and the delivery of the
9 bonds, and the actual principal amount of bonds issued and
10 delivered. The filing of the notification shall be done by
11 actual delivery or by posting in a United States post office
12 depository with correct first class postage paid. If the
13 actual principal amount of bonds issued and delivered is less
14 than the amount of the allocation, the amount of the
15 allocation is automatically reduced to the actual principal
16 amount of the bonds issued and delivered.

17 2. If the issuer political subdivision does not reasonably
18 expect to issue and deliver the bonds within the ninety-day
19 thirty-day period and evidence of an executed, valid and
20 binding agreement to purchase the bonds is obtained from an
21 entity with the legal ability to purchase and this agreement
22 is filed with the governor's designee, the ninety-day thirty-
23 day allocation period is automatically extended for an
24 additional thirty forty-five days. The allocation period
25 shall not be extended beyond that additional thirty forty-five
26 days.

27 3. The allocation is no longer valid after unless the
28 bonds are issued and delivered prior to December 24 or in the
29 case of bonds described in section 7C.11 are issued and
30 delivered prior to December 31 of the calendar year in which
31 it the allocation is certified, except as provided in section
32 7C.8.

33 Sec. 8. Section 7C.8, Code 1987, is amended to read as
34 follows:

35 7C.8 STATE CEILING CARRYFORWARDS.

1 It is the intention of the general assembly that the
2 maximum use be made of all carryforward provisions in section
3 ~~103(n)~~ of the Internal Revenue Code of 1954. Therefore, if
4 the aggregate principal amount of bonds, subject to section
5 146 of the Internal Revenue Code, issued by all ~~issuers~~
6 political subdivisions in a calendar year is less than the
7 state ceiling for that calendar year, ~~an issuer~~ a political
8 subdivision may apply to the governor's designee for an
9 allocation of a specified portion of the excess state ceiling
10 to be applied to a specified carryforward project. The
11 governor's designee shall determine the time and manner in
12 which applications for an allocation of excess state ceiling
13 shall be made for this purpose and may, in the designee's
14 discretion, refuse any requests. However, the procedures for
15 applications, the method of identifying, and the types
16 permitted of carryforward projects shall comply with the
17 carryforward provisions ~~of section 103(n)~~ of the Internal
18 Revenue Code of 1954 and regulations promulgated under that
19 section those provisions.

20 Sec. 9. Section 7C.9, Code 1987, is amended to read as
21 follows:

22 7C.9 NONBUSINESS DAYS.

23 If the expiration date of either the ~~ninety-day~~ thirty-day
24 period or the ~~thirty-day~~ forty-five day extension period
25 described in subsection 1 or 2 of section 7C.7 is a Saturday,
26 Sunday or any day on which the offices of the state, banking
27 institutions or savings and loan associations in the state are
28 authorized or required to close, the expiration date is
29 extended to the first day thereafter which is not a Saturday,
30 Sunday or other previously described day.

31 Sec. 10. Section 7C.10, Code 1987, is amended to read as
32 follows:

33 7C.10 RESUBMISSION OF EXPIRED ALLOCATIONS.

34 If an allocation becomes no longer valid as provided in
35 section 7C.7, the ~~issuer~~ political subdivision may resubmit

1 its application for the same project or purpose. The
2 resubmitted application shall be treated as a new application
3 and preference, priority, or prejudice shall not be given to
4 the application or the ~~issuer~~ political subdivision as a
5 result of the prior application.

6 Sec. 11. Section 7C.11, Code 1987, is amended by striking
7 the section and inserting in lieu thereof the following:

8 7C.11 PRIORITY ALLOCATIONS.

9 Notwithstanding any other provision of this chapter, the
10 governor's designee shall give priority in allocation of the
11 state ceiling not yet allocated to bonds which must be issued
12 and delivered on or prior to December 31 of the calendar year
13 in order for the interest on the bonds to be exempt from
14 federal income taxation. Applications for an allocation with
15 respect to these bonds shall be accompanied by an opinion of a
16 nationally recognized bond counsel to the effect that the
17 bonds must be issued and delivered on or prior to December 31
18 in that calendar year in order for the interest on the bonds
19 to be exempt from federal income taxation.

20 Sec. 12. Section 7C.12, Code 1987, is amended to read as
21 follows:

22 7C.12 AUTHORITY AND DUTIES OF THE GOVERNOR AND GOVERNOR'S
23 DESIGNEE.

24 1. The governor shall designate a person, agency
25 department, or authority to administer this chapter. The
26 person, agency department, or authority so designated shall
27 serve at the pleasure of the governor and shall be selected
28 primarily for administrative ability and knowledge in the area
29 of public finance.

30 2. In addition to the powers and duties specified in
31 sections 7C.1 to 7C.11, the governor's designee:

32 1 a. Shall promulgate reasonable rules which are necessary
33 or expedient to carry out the intent and purposes of the
34 private activity bond allocation Act.

35 2 b. Shall maintain appropriate records of all

1 applications filed by ~~issuers~~ political subdivisions pursuant
2 to section 7C.6 and all bonds issued pursuant to these
3 applications including, but not limited to, a daily accounting
4 of the amount of the state ceiling available for allocation,
5 ~~and~~ the amount of the state ceiling which has been allocated
6 but not used, and the names, addresses, and telephone numbers
7 of those political subdivisions for whom an allocation has
8 been approved or disapproved and the amount of the allocation
9 approved or disapproved for the political subdivisions.

10 Sec. 13. This Act, being deemed of immediate importance,
11 takes effect upon enactment.

12 EXPLANATION

13 This bill implements the state volume limitations (state
14 ceiling) on private activity bonds mandated by the Tax Reform
15 Act of 1986.

16 The state ceiling is applicable to most private activity
17 bonds including qualified mortgage bonds, qualified student
18 loan bonds, exempt facility bonds, small-issue bonds,
19 qualified redevelopment bonds, and tax-exempt private loan
20 bonds. The volume limitation, however, is not applicable to
21 certain other private activity bonds including qualified
22 veterans' mortgage bonds, qualified 501(c)(3) bonds, exempt
23 facility bonds for airports, docks, and wharves, and exempt
24 facility bonds for solid waste disposal facilities that are
25 governmentally owned, nor is the state ceiling applicable to
26 traditional governmental purpose bonds, e.g., general
27 obligation bonds.

28 The Iowa state ceiling until December 31, 1987, is
29 \$250,000,000. After that date, the limitation is reduced to
30 \$150,000,000.

31 The bill directs that 30 percent of the state ceiling shall
32 be allocated to the Iowa finance authority for issuing
33 qualified mortgage bonds or for issuing mortgage credit
34 certificates; 12 percent for bonds issued to carry out
35 programs established under chapters 280A, 280B, and 280C; 16

1 percent for qualified student loan bonds issued by the Iowa
2 student loan liquidity corporation; 5 percent for bonds for
3 beginning farmers issued by the Iowa agricultural development
4 authority; and 5 percent for bonds issued by cities and
5 counties for quasi-private purposes which require an
6 allocation. The remaining amount (32 percent) of the state
7 ceiling is available for other bonds subject to the state
8 ceiling on a first-come, first-served basis. In the event
9 that it is determined that any of the above priority purposes
10 do not need all the state ceiling set aside for those
11 purposes, the excess may be reallocated for other types of
12 bonds.

13 The governor is authorized to appoint a designee to
14 administer the allocation of the state ceiling. Applications
15 for an allocation of the state ceiling are to be made to the
16 governor's designee. An allocation is valid for up to 75 days
17 after it has been made by the governor's designee.

18 The bill is effective upon enactment.

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HOUSE FILE 658

AN ACT

RELATING TO THE ALLOCATION OF THE STATE CEILING ON PRIVATE ACTIVITY BONDS FOR TAX-EXEMPT PURPOSES, THE POWERS OF CERTAIN FINANCIAL INSTITUTIONS, ACTS WHICH CONSTITUTE A FRAUDULENT PRACTICE, IMPOSING PENALTIES, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 7C.2, subsection 1, Code 1987, is amended to read as follows:

1. ~~Implement Act-section-621-of-the-Deficit-Reduction-Act-of-1984-Pub-L-No-98-369; section 146 of the Internal Revenue Code~~ by providing a different formula for allocating the state ceiling among the various governmental units which are authorized to issue private activity bonds under the laws of this state.

Sec. 2. Section 7C.3, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.3 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Internal Revenue Code" means the Internal Revenue Code as defined in section 422.3.
2. "State ceiling" means the same as defined in section 146(d) of the Internal Revenue Code.
3. "Bond" or "private activity bond" means a private activity bond as defined in section 141 of the Internal Revenue Code.
4. "Political subdivision" means a political subdivision, authority, or department of the state which is authorized under the laws of the state to issue private activity bonds.

5. "Carryforward project" means a carryforward project or carryforward purpose as defined in section 146(f) of the Internal Revenue Code.

6. "Allocation" means that portion of the state ceiling which is allocated and certified to a political subdivision hereby or by the governor's designee pursuant to section 7C.8 with respect to an issue of bonds for a specific project or purpose.

7. "Governor's designee" means the person, department, or authority designated by the governor to administer this chapter.

8. "Qualified mortgage bond" means a qualified mortgage bond as defined in section 143(a) of the Internal Revenue Code.

9. "Qualified small issue bond" means a qualified small issue bond as defined in section 144(a) of the Internal Revenue Code.

10. "Qualified student loan bond" means a qualified student loan bond as defined in section 144(b) of the Internal Revenue Code.

11. "First-time farmer" means a first-time farmer as defined in section 147(c) of the Internal Revenue Code.

Sec. 3. Section 7C.4, Code 1987, is amended to read as follows:

7C.4 MAXIMUM AMOUNT OF BONDS.

The aggregate principal amount of bonds which are subject to section 146 of the Internal Revenue Code which may be issued by all issuers political subdivisions during a calendar year shall not exceed the state ceiling for that calendar year, except as provided in section 7C.8.

Sec. 4. NEW SECTION. 7C.4A ALLOCATION OF STATE CEILING.

For each calendar year, the state ceiling shall be allocated among bonds issued for various purposes as follows:

1. Thirty percent of the state ceiling shall be allocated solely to the Iowa finance authority for the following purposes:
 - a. Issuing qualified mortgage bonds.

b. Reallocating the amount, or any portion thereof, to another qualified political subdivision for the purpose of issuing qualified mortgage bonds; or

c. Exchanging the allocation, or any portion thereof, for the authority to issue mortgage credit certificates by election under section 25(c) of the Internal Revenue Code.

However, at any time during the calendar year the executive director of the Iowa finance authority may determine that a lesser amount need be allocated to the Iowa finance authority and on that date this lesser amount shall be the amount allocated to the authority and the excess shall be allocated under subsection 6.

2. Twelve percent of the state ceiling shall be allocated to bonds issued to carry out programs established under chapters 280A, 280B, and 280C. However, at any time during the calendar year the director of the Iowa department of economic development may determine that a lesser amount need be allocated and on that date this lesser amount shall be the amount allocated for those programs and the excess shall be allocated under subsection 6.

3. Sixteen percent of the state ceiling shall be allocated to qualified student loan bonds. However, at any time during the calendar year the governor's designee, with the approval of the Iowa student loan liquidity corporation, may determine that a lesser amount need be allocated to qualified student loan bonds and on that date the lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 6.

4. Five percent of the state ceiling shall be allocated to qualified small issue bonds issued for first-time farmers. However, at any time during the calendar year the governor's designee, with the approval of the Iowa agricultural development authority may determine that a lesser amount need be allocated to qualified small issue bonds for first-time farmers and on that date this lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 6.

5. During the period of January 1 through October 25, five percent of the state ceiling shall be reserved for private activity bonds issued by political subdivisions, the proceeds of which are used by the issuing political subdivisions.

6. a. The amount of the state ceiling not allocated under subsections 1 through 4, and after October 25, the amount of the state ceiling reserved under subsection 5 and not allocated, shall be allocated to all bonds requiring an allocation under section 146 of the Internal Revenue Code without priority for any type of bond over another, except as otherwise provided in sections 7C.5 and 7C.11.

b. The population of the state shall be determined in accordance with the Internal Revenue Code.

Sec. 5. Section 7C.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.5 FORMULA FOR ALLOCATION.

Except as provided in section 7C.4A, subsections 1 through 4, the state ceiling shall be allocated among all political subdivisions on a statewide basis on the basis of the chronological orders of receipt by the governor's designee of the applications described in section 7C.6 with respect to a definitive issue of bonds, as determined by the day, hour, and minute time-stamped on the application immediately upon receipt by the governor's designee. However, for the period January 1 through October 25 of each year, allocations to bonds for which an amount of the state ceiling has been reserved pursuant to section 7C.4A, subsection 5, shall be made to the political subdivisions submitting the applications first from the reserved amount until the reserved amount has been fully allocated and then from the amount specified in section 7C.4A, subsection 6.

Sec. 6. Section 7C.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.6 APPLICATION FOR ALLOCATION.

A political subdivision which proposes to issue bonds for a particular project or purpose for which an allocation of the

state ceiling is required and has not already been made under section 7C.4A, subsections 1 through 4, must make an application for allocation before issuance of the bonds. The application may be made by the political subdivision or its representative, the beneficiary of the project or purpose, or by a person acting on behalf of the beneficiary. The application shall be submitted to the governor's designee, in the form prescribed by the governor's designee. The application shall contain, where appropriate, the following information:

1. Name and mailing address of the political subdivision.
 2. Name of the chief elected or appointed executive officer of the political subdivision.
 3. If the project to be financed by the bonds is not to be owned by the political subdivision, the name or description and location by mailing address or other definitive description of the project for which the allocation is requested.
 4. Name and mailing address of both the initial owner, beneficiary, or operator of the project and an appropriate person from whom information regarding the project or purpose can be obtained.
 5. Date of adoption by the governing body of the political subdivision of any initial governmental act with respect to the bonds.
 6. Amount of the state ceiling which the political subdivision is requesting be allocated to the bonds.
 7. Other information which the governor's designee deems reasonably required to carry out the purposes of this chapter.
- Sec. 7. Section 7C.7, Code 1987, is amended to read as follows:

7C.7 CERTIFICATION OF ALLOCATION.

Upon the receipt of a completed application pursuant to section 7C.6, the governor's designee shall promptly certify to the issuer political subdivision the amount of the state ceiling allocated to the bonds for the purpose or project with

respect to which the application was submitted. The allocation shall remain valid for ninety thirty days from the date the allocation is ~~was~~ certified, subject to the following conditions:

1. If the bonds are issued and delivered for the purpose or project within the ninety-day thirty-day period or the forty-day extension period provided in subsection 2, the issuer political subdivision or the issuer's attorney its representative shall within ten days following the issuance and delivery of the bonds notify or not later than October 25 of that year, if the bonds were issued and delivered on or before that date, file with the governor's designee, in such the form or manner as the governor's designee may prescribe, a notification of the date of issuance and the delivery of the bonds, and the actual principal amount of bonds issued and delivered. The filing of the notification shall be done by actual delivery or by posting in a United States post office depository with correct first class postage paid. If the actual principal amount of bonds issued and delivered is less than the amount of the allocation, the amount of the allocation is automatically reduced to the actual principal amount of the bonds issued and delivered.

2. If the issuer political subdivision does not reasonably expect to issue and deliver the bonds within the ninety-day thirty-day period and evidence of an executed, valid and binding agreement to purchase the bonds is obtained from an entity with the legal ability to purchase and this agreement is filed with the governor's designee, the ninety-day thirty-day allocation period is automatically extended for an additional thirty forty-five days. The allocation period shall not be extended beyond that additional thirty forty-five days.

3. The allocation is no longer valid after unless the bonds are issued and delivered prior to December 24 or in the case bonds described in section 7C.11 are issued and delivered prior to December 31 of the calendar year in which

re the allocation is certified, except as provided in section 7C.8.

Sec. 8. Section 7C.8, Code 1987, is amended to read as follows:

7C.8 STATE CEILING CARRYFORWARDS.

It is the intention of the general assembly that the maximum use be made of all carryforward provisions in section ~~103(n)~~ of the Internal Revenue Code of 1954. Therefore, if the aggregate principal amount of bonds, subject to section 146 of the Internal Revenue Code, issued by all issuers political subdivisions in a calendar year is less than the state ceiling for that calendar year, an issuer a political subdivision may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The governor's designee shall determine the time and manner in which applications for an allocation of excess state ceiling shall be made for this purpose and may, in the designee's discretion, refuse any requests. However, the procedures for applications, the method of identifying, and the types permitted of carryforward projects shall comply with the carryforward provisions ~~of section 103(n)~~ of the Internal Revenue Code of 1954 and regulations promulgated under that section those provisions.

Sec. 9. Section 7C.9, Code 1987, is amended to read as follows:

7C.9 NONBUSINESS DAYS.

If the expiration date of either the ninety-day thirty-day period or the thirty-day forty-five day extension period described in subsection 1 or 2 of section 7C.7 is a Saturday, Sunday or any day on which the offices of the state, banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday or other previously described day.

Sec. 10. Section 7C.10, Code 1987, is amended to read as follows:

7C.10 RESUBMISSION OF EXPIRED ALLOCATIONS.

If an allocation becomes no longer valid as provided in section 7C.7, the issuer political subdivision may resubmit its application for the same project or purpose. The resubmitted application shall be treated as a new application and preference, priority, or prejudice shall not be given to the application or the issuer political subdivision as a result of the prior application.

Sec. 11. Section 7C.11, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.11 PRIORITY ALLOCATIONS.

Notwithstanding any other provision of this chapter, the governor's designee shall give priority in allocation of the state ceiling not yet allocated to bonds which must be issued and delivered on or prior to December 31 of the calendar year in order for the interest on the bonds to be exempt from federal income taxation. Applications for an allocation with respect to these bonds shall be accompanied by an opinion of a nationally recognized bond counsel to the effect that the bonds must be issued and delivered on or prior to December 31 in that calendar year in order for the interest on the bonds to be exempt from federal income taxation.

Sec. 12. Section 7C.12, Code 1987, is amended to read as follows:

7C.12 AUTHORITY AND DUTIES OF THE GOVERNOR AND GOVERNOR'S DESIGNEE.

1. The governor shall designate a person, agency department, or authority to administer this chapter. The person, agency department, or authority so designated shall serve at the pleasure of the governor and shall be selected primarily for administrative ability and knowledge in the area of public finance.

2. In addition to the powers and duties specified in sections 7C.1 to 7C.11, the governor's designee:

1 a. Shall promulgate reasonable rules which are necessary or expedient to carry out the intent and purposes of the private activity bond allocation Act.

2 b. Shall maintain appropriate records of all applications filed by issuers political subdivisions pursuant to section 7C.6 and all bonds issued pursuant to these applications including, but not limited to, a daily accounting of the amount of the state ceiling available for allocation, and the amount of the state ceiling which has been allocated but not used, and the names, addresses, and telephone numbers of those political subdivisions for whom an allocation has been approved or disapproved and the amount of the allocation approved or disapproved for the political subdivisions.

Sec. 13. Section 524.803, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. Organize, acquire, or invest in a subsidiary for the purpose of engaging in any one or more of the following, subject to the prior approval of the superintendent:

(1) Nondepository activities that a state bank is authorized to engage in directly under this chapter.

(2) Any activity that a bank service corporation is authorized to engage in under state or federal law or regulation.

(3) Any activity authorized pursuant to section 524.825.

Sec. 14. NEW SECTION. 524.825 SECURITIES ACTIVITIES.

Subject to the prior approval of the superintendent, a state bank or a subsidiary of a state bank organized or acquired pursuant to section 524.803, subsection 1, paragraph "f" may engage in directly, or may organize, acquire, or invest in a subsidiary for the purpose of engaging in securities activities and any aspect of the securities industry, including, but not limited to, any of the following:

1. Issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes, interest in mutual funds or money-market-type mutual funds, or other securities.

2. Organizing, sponsoring, and operating one or more mutual funds.

3. Acting as a securities broker-dealer licensed under chapter 502. The business relating to securities shall be conducted through, and in the name of, the broker-dealer. The requirements of chapter 502 apply to any business of the broker-dealer transacted in this state.

A subsidiary engaging in activities authorized by this section may also engage in any other authorized activities under section 524.803, subsection 1, paragraph "f".

Sec. 15. Section 524.901, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. Futures, forward, and standby contracts to purchase and sell any of the instruments eligible for state banks' purchase and sale, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with levels of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

Sec. 16. Section 524.901, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. g. Bonds and securities which are authorized investments under paragraph "a", "b", "c", or "d" include investments in an investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in paragraph "a", "b", "c", or "d" and to repurchase agreements fully collateralized by the United States government obligations described in paragraph "a", "b", "c", or "d", if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Sec. 17. Section 524.901, subsection 3, paragraph d, Code 1987, is amended to read as follows:

d. Shares in a corporation which the state bank is authorized to acquire and hold pursuant to section 524.801, subsection 1, paragraphs "c", "d", and "e", and "f" and section 524.825.

Sec. 18. Section 524.901, subsection 3, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. i. Shares of investment companies, up to a maximum of twenty percent of capital and surplus of the state bank in any one company, if the portfolio of such an investment company consists wholly of investments in which the state bank could invest directly without limitation pursuant to this section.

NEW LETTERED PARAGRAPH. j. Shares of investment companies whose portfolios contain investments which are subject to limitations pursuant to this section, provided that a state bank's investment in such shares does not exceed the limitation set forth in this section for the underlying instrument.

Sec. 19. Section 524.901, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A state bank may, in the exercise of the powers granted in this chapter, purchase cash value life insurance contracts which may include provisions for the lump sum payment of premiums and which may include insurance against the loss of the lump sum payment. The cash value life insurance contracts purchased from any one company shall not exceed twenty percent of capital and surplus of the state bank.

Sec. 20. Section 533.4, subsection 5, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Commercial paper issued by United States corporations as defined by rule.

Sec. 21. Section 533.4, subsection 7, Code 1987, is amended to read as follows:

7. Assess fines as may be provided by the bylaws for failure to make repayments on loans and payments on shares when due; provided no such fine shall exceed one percent per month on amounts in arrears or five cents, whichever is the larger.

Sec. 22. Section 533.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

533.5 MEMBERSHIP.

The membership of a credit union consists of those persons in the common bond, duly admitted, who have paid any required one-time or periodic membership fee, or both, have subscribed to one or more shares, and have complied with the other requirements specified by the articles of incorporation and bylaws. To continue membership, a member must comply with any changes in the par value of the share. Credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries. Changes in the common bond may be made by the board of directors. If adopted as a policy by the board of directors of a credit union, members who cease to meet qualifications of membership may retain their credit union membership and all membership privileges. Organizations, incorporated or otherwise, may be members.

Sec. 23. Section 533.9, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Within five days following the organization meeting and each annual meeting the directors shall elect from their own number a chairperson of the board, a vice chairperson, president and a secretary, of whom the last two may be the same individual; and also a chief financial officer whose title shall be designated by the board of directors, a credit committee of not less than three members, and an auditing committee of not less than three members, and may also elect alternate members of the credit committee. The board may appoint an executive committee to act on its behalf when

~~designated for that purpose. It shall be the duty of the~~ The directors to have general management of the affairs of the credit union ~~particularly to:~~

Sec. 24. Section 533.9, subsections 1 through 7, and unnumbered paragraph 2, Code 1987, are amended by striking the subsections and unnumbered paragraph.

Sec. 25. Section 533.11, subsections 1 and 2, Code 1987, are amended to read as follows:

1. Make or cause to be made an examination of the affairs of the credit union at least quarterly ~~quarterly~~ semiannually, including an audit of its books and, ~~in the event said~~ if the committee feels such action to be necessary, it shall call the members together thereafter after the audit and submit to them its report.

2. Make or cause to be made an annual audit and report and submit the same it at the annual meeting of the members.

Sec. 26. Section 533.34, subsection 1, Code 1987, is amended to read as follows:

1. A state credit union may convert into a federal credit union with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of the credit union's members ~~eligible to~~ who vote on the proposal. This vote, if taken, shall be at a special meeting called for that purpose and shall be in the manner prescribed by the bylaws. ~~Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of conversion by signing a statement in a form satisfactory to the superintendent. This vote shall have the same force and effect as if cast at the meeting.~~

Sec. 27. Section 533.38, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A corporate central credit union may be established. Credit unions organized under this chapter, the Federal Credit Union Act, or any other credit union act and credit union organizations may be members. In addition, regulated

financial institutions, nonprofit organizations, and cooperative organizations may be members to the extent and manner provided for in the bylaws of the corporate central credit union. The corporate central credit union shall have all the powers, restrictions, and obligations imposed upon, or granted to a credit union under this chapter, except that the corporate central credit union may exercise any of the following additional powers subject to the adoption of rules by the superintendent pursuant to chapter 17A and with the prior written approval of the superintendent:

Sec. 28. NEW SECTION. 533.48 INVESTMENT IN BANKS OR SAVINGS AND LOAN ASSOCIATIONS.

1. INVESTMENTS IN BANKS. A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a bank.

2. INVESTMENT IN SAVINGS AND LOANS. A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a state savings and loan association.

3. FINDINGS REQUIRED. The superintendent shall not grant an approval under subsection 1 or 2, except after making one of the following findings:

a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.

b. Based upon a preponderance of the evidence presented, the proposed investment would have an anticompetitive effect as described in paragraph "a", but other factors, specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.

4. COMPETITION PRESERVED. The subsequent liquidation of a bank or state savings and loan association whose shares are acquired under this section shall not prevent the subsequent incorporation of another bank or savings and loan association.

in the same community, and the superintendent of banking shall not find the liquidation of such a bank to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, and the superintendent of savings and loan associations shall not find the liquidation of such a savings and loan association to be grounds for disapproving the incorporation of another savings and loan association in the same community under chapter 534.

Sec. 29. Section 534.103, subsection 6, Code, 1987, is amended to read as follows:

6. LIMITED TRUST POWERS. Associations An association incorporated under this chapter may act as trustee for trusts which are created or organized in the United States, and which form part of a stock bonus, pension, or profit sharing plan which qualifies for special tax treatment under section 401(d) or subsection (a) of section 408 of the Internal Revenue Code of 1954, as amended, or as trustee with no active fiduciary duties, if the funds of such the trust are invested only in savings accounts or deposits in such the association or in obligations or securities issued by such the association. All funds held in such a fiduciary capacity by any such an association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subsection.

The administrator superintendent is authorized to grant by special permit to an association the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity. However, this authority is available only for periods of time when federally chartered savings and loan associations operating in this state are granted similar authority, and the state authorization is subject to the rights and limitations established in rules adopted by the superintendent, which shall be consistent with the rights and limitations for federally chartered associations engaged in his type of activity.

Sec. 30. Section 534.107, Code 1987, is amended to read as follows:

534.107 EXPENDITURES AND OPERATING EXPENSES.

~~All expenses for management in conducting the affairs of an association, excluding the cost of borrowed money, shall be paid from interest, service charges and other sources of profit. The said operating expense for of an association in any one year shall not exceed three percent for associations with assets not to exceed eight hundred thousand dollars and two percent for those over such amount as shown by the associations in their last annual report of the association's average assets during that year without the written approval of the superintendent.~~

Sec. 31. Section 534.111, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Every association organized under the provisions of this chapter shall have and exercise has all the rights, powers, and privileges pertaining to savings and to loans not in conflict with the laws of this state, which are conferred upon federal savings and loan associations by the Home Owners' Loan Act of 1933, title 12, section 1464, United States Code 12 U.S.C. § 1464, and conferred by regulations adopted by the federal home loan bank board and the federal savings and loan insurance corporation.

Sec. 32. NEW SECTION. 534.112 REGULATORY CAPITAL.

An association shall maintain regulatory capital in the amount required by regulations of the federal savings and loan insurance corporation. For the purpose of this section, "regulatory capital" means the sum of all reserve accounts (except specific reserves established to offset actual or anticipated losses), undivided profits, surplus, capital stock, and any other nonwithdrawable accounts.

Sec. 33. Section 534.207, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. Loans secured by first liens or first claims on residential real estate, participation interests in groups of

loans secured by first liens or first claims on residential real estate, securities that are secured by groups of loans secured by first liens or first claims on residential real estate, or property improvement loans for the making of improvements upon residential real property, or a combination of these.

Sec. 34. Section 534.209, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

534.209 COMMERCIAL LENDING AND ACCOUNTS.

1. An association shall not hold more than forty percent of its assets in commercial loans and consumer loans as an annual average based on monthly computations.
2. An association may accept a commercial NOW account. For the purposes of this subsection, a "commercial NOW account" is a NOW account, as authorized by section 534.301, subsection 3, for a commercial, corporate, business, or agricultural entity.
3. For the purposes of this section, unless the context otherwise requires:
 - a. "Commercial loan" means a loan to a person borrowing money for a business or agricultural purpose.
 - b. "Business purpose" means a loan to a for-profit entity, or a for-profit activity, including but not limited to a commercial, service, or industrial enterprise carried on for profit, or an investment activity.
 - c. "Agricultural purpose" means as defined in section 535.13.
 - d. "Commercial loan" does not include a loan secured by an interest in real estate for the purpose of financing the acquisition of real estate or the construction of improvements on real estate. In determining which loans are "commercial loans" the rules of construction stated in section 535.2, subsection 2, paragraph "b", apply.
4. For the purposes of this section, a lease of personal property is treated as a commercial loan if a loan to the

lessee to acquire the property would have been a commercial loan.

Sec. 35. NEW SECTION. 534.215 FALSE STATEMENT FOR CREDIT.

A person who knowingly does either of the following is guilty of a fraudulent practice:

1. Makes or causes to be made, directly or indirectly, a false statement in writing with the intent that the false statement shall be relied upon by an association for the purpose of procuring the delivery of property, the payment of cash, or the receipt of credit in any form, for the benefit of the person or of any other person in which the person is interested or for whom the person is acting.
2. Procures the delivery of property, the payment of cash, or the receipt of credit in any form, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of the person, or any other person in which the person is interested or for whom the person is acting, if the person knew that the association relied or would rely upon the false written statement.

Sec. 36. Section 534.307, subsection 2, Code 1987, is amended by striking the subsection.

Sec. 37. Section 534.505, subsection 4, Code 1987, is amended by striking the subsection.

Sec. 38. Section 534.702, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Subject to the laws and regulations of the United States, a foreign association transacting business within this state is subject to the provisions of this chapter and is subject to the supervision of the superintendent as to its operations in this state. Notwithstanding subsection 2 of section 534.102, the term "association" or "state association" in this chapter shall include a foreign association and any foreign association which is a party to a plan of merger under section 534.511 as to its operations in this state.

Sec. 39. This Act, being deemed of immediate importance, takes effect upon enactment.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 658, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 29, 1987

TERRY E. BRANSTAD
Governor