

SENATE FILE 310
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 113)
Substituted for H.F. 555

Passed Senate, Date 3/17/91 (p. 655) Passed House, Date 4/11/91 (p. 1048)
Vote: Ayes 40 Nays 0 Vote: Ayes 96 Nays 0
Approved April 29, 1991 (p. 1533)

A BILL FOR

1 An Act relating to the repeal of chapter 536B, and the
2 restrictions on investments made by, and debt instruments
3 offered for sale by, an industrial loan company.

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

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1 Section 1. Section 536A.16, Code 1991, is amended to read
2 as follows:

3 536A.16 CEASE AND DESIST ORDERS.

4 ~~Whenever~~ If the superintendent has reasonable cause to
5 believe that any a licensee is violating ~~any provision of this~~
6 ~~chapter~~ ~~chapter-536B~~; or rules adopted ~~under either~~ pursuant
7 to this chapter, the superintendent may, after ten days'
8 advance written notice, in addition to all actions provided
9 for in this chapter, and without prejudice thereto, enter an
10 order requiring the licensee to cease, desist, and refrain
11 from the violation. After receipt of the advance written
12 notice ~~as provided above~~, any the licensee, within five days
13 from the receipt of such the notice, may file with the
14 superintendent a written demand for a hearing. Hearings shall
15 promptly be held in the office of the superintendent and a
16 cease and desist order shall not be issued until after the
17 hearing. The licensee shall be entitled to present evidence
18 and the testimony of witnesses at the hearing.

19 Sec. 2. Section 536A.17, Code 1991, is amended to read as
20 follows:

21 536A.17 INJUNCTIONS.

22 The superintendent by counsel of the attorney general may
23 commence an action in the district court, in the name of the
24 state of Iowa as plaintiff on the relation of the
25 superintendent to restrain and enjoin any licensee from
26 violating this ~~chapter~~ ~~chapter-536B~~; or rules adopted under
27 either pursuant to this chapter, or to restrain and enjoin any
28 person, copartnership, firm, or corporation from engaging in
29 the business of operating an industrial loan company without
30 obtaining a license as required by this chapter.

31 Sec. 3. Section 536A.22, Code 1991, is amended to read as
32 follows:

33 536A.22 THRIFT CERTIFICATES.

34 Licensed industrial loan companies may sell senior debt to
35 the general public in the form of thrift certificates,

1 installment thrift certificates, certificates of indebtedness,
2 promissory notes or similar evidences of indebtedness. The
3 total amount of such thrift certificates, installment thrift
4 certificates, certificates of indebtedness, promissory notes
5 or similar evidences of indebtedness outstanding and in the
6 hands of the general public shall not at any time exceed ten
7 times the total amount of capital, surplus, undivided profits
8 and subordinated debt that gives priority to such securities
9 of the issuing industrial loan company. ~~Except as provided in~~
10 ~~chapter 536B, the~~ The sale of such securities shall be subject
11 to the provisions of chapter 502, and shall not be construed
12 to be exempt ~~therefrom~~ by reason of the provisions of section
13 502.202, subsection 10, except that the sale of thrift
14 certificates or installment thrift certificates which are
15 redeemable by the holder thereof either upon demand or within
16 a period not in excess of one hundred eighty days ~~shall be~~ are
17 exempt from sections 502.201 and 502.602.

18 Sec. 4. Section 536A.25, Code 1991, is amended to read as
19 follows:

20 536A.25 RESTRICTIONS.

21 1. No An industrial loan company licensed under this
22 chapter shall not make any a loan of money or property to or
23 guarantee the obligations of, ~~any of~~ its directors or
24 officers; or loan to any borrower, other than a subsidiary or
25 affiliated corporation, more than twenty percent of its total
26 capital, surplus, and undivided profits. No A licensee shall
27 not make any a loan under any other name or at any other place
28 of business than that named in the license.

29 2. An industrial loan company licensed under this chapter
30 that sells debt instruments to the general public in the form
31 of thrift certificates, installment thrift certificates,
32 certificates of indebtedness, promissory notes, or similar
33 evidences of indebtedness, shall not loan to a borrower,
34 including a subsidiary or an affiliated corporation, more than
35 twenty percent of the industrial loan company's total of

1 capital, surplus, and undivided profits. The aggregate of all
2 loans to subsidiaries and affiliated corporations of the
3 industrial loan company shall not exceed ten percent of the
4 industrial loan company's total assets.

5 A debt instrument sold by an industrial loan company which
6 is not insured by the federal deposit insurance corporation,
7 shall contain on its face a notice in bold print that the debt
8 instrument is not insured or guaranteed by the federal deposit
9 insurance corporation.

10 3. Investments by an industrial loan company licensed
11 under this chapter are subject to the provisions of section
12 524.901 as applied to state banks.

13 Sec. 5. Section 546.3, Code 1991, is amended to read as
14 follows:

15 546.3 BANKING DIVISION.

16 The banking division shall regulate and supervise banks
17 under chapter 524, regulated loan companies under chapter 536,
18 and industrial loan companies under chapter 536A, and the
19 ~~industrial-loan-thrift-guaranty-corporation-of-Iowa-under~~
20 ~~chapter-536B,~~ and shall perform other duties assigned to the
21 division by law. The division is headed by the superintendent
22 of banking who ~~shall be~~ is appointed pursuant to section
23 524.201. The state banking board shall perform duties within
24 the division as prescribed by law.

25 Sec. 6. Chapter 536B, Code 1991, is repealed.

26 EXPLANATION

27 This bill repeals chapter 536B relating to the Iowa
28 industrial loan corporation thrift guaranty law. The guaranty
29 corporation established in that chapter is currently insolvent
30 and under the management of the state banking superintendent.
31 The bill also provides that licensed industrial loan companies
32 which sell debt instruments to the public, shall not loan to
33 any borrower, including a subsidiary or affiliated
34 corporation, more than 20 percent of the industrial loan
35 company's total of capital, surplus, and, undivided profits.

1 The aggregate of all loans to subsidiaries and affiliated
2 corporations of the industrial loan company shall not exceed
3 10 percent of the industrial loan company's total assets. Any
4 debt instrument issued by the industrial loan company must,
5 unless insured by the federal deposit insurance corporation,
6 include on its face a notice in bold print that the debt
7 instrument is not insured or guaranteed by the federal deposit
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11 section 524.901 as applied to state banks.

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GETTINGS, CH.
DELUHERY
SLIFE

SSB 113
Commerce

SENATE/HOUSE FILE 310
BY (PROPOSED DEPARTMENT OF
COMMERCE/BANKING DIVISION
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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2 as follows:

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4 Whenever If the superintendent has reasonable cause to
5 believe that any a licensee is violating any-provision-of this
6 chapter-7-chapter-536B7, or rules adopted under-either pursuant
7 to this chapter, the superintendent may, after ten days'
8 advance written notice, in addition to all actions provided
9 for in this chapter, and without prejudice thereto, enter an
10 order requiring the licensee to cease, desist, and refrain
11 from the violation. After receipt of the advance written
12 notice as-provided-above, any the licensee, within five days
13 from the receipt of such the notice, may file with the
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24 state of Iowa as plaintiff on the relation of the
25 superintendent to restrain and enjoin any licensee from
26 violating this chapter-7-chapter-536B7, or rules adopted under
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8 and subordinated debt that gives priority to such securities
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10 ~~chapter-536B, the~~ The sale of such securities shall be subject
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12 to be exempt ~~therefrom~~ by reason of the provisions of section
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12 524.901 as applied to state banks.

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18 and industrial loan companies under chapter 536A, and the
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21 division by law. The division is headed by the superintendent
22 of banking who ~~shall-be~~ is appointed pursuant to section
23 524.201. The state banking board shall perform duties within
24 the division as prescribed by law.

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9 The bill also provides that investments made by an
10 industrial loan company are subject to the provisions of
11 section 524.901 as applied to state banks.

12 BACKGROUND STATEMENT
13 SUBMITTED BY THE AGENCY

14 Due to several failings of industrial loan companies, which
15 resulted in the thrift guaranty corporation becoming
16 insolvent, chapter 536B was amended effective July 1, 1986, to
17 provide that thrift certificates must contain on their face a
18 statement in bold print that the instrument is not insured by
19 the thrift guaranty corporation or the state of Iowa. The
20 superintendent took control of management of the corporation
21 on December 23, 1988, and subsequently filed chapter 11
22 bankruptcy. As the corporation is insolvent and industrial
23 loan companies may no longer issue thrift certificates that
24 are protected by the provisions of this chapter, the chapter
25 should be repealed. However, since industrial loan companies
26 may still issue uninsured thrift certificates, certain
27 sections of this chapter are moved to chapter 536A.

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SENATE FILE 310

AN ACT

RELATING TO THE REPEAL OF CHAPTER 536B, AND THE RESTRICTIONS ON INVESTMENTS MADE BY, AND DEBT INSTRUMENTS OFFERED FOR SALE BY, AN INDUSTRIAL LOAN COMPANY.

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

Section 1. Section 536A.16, Code 1991, is amended to read as follows:

536A.16 CEASE AND DESIST ORDERS.

Whenever if the superintendent has reasonable cause to believe that any a licensee is violating any-provision-of this chapter--chapter-536B, or rules adopted under-either pursuant to this chapter, the superintendent may, after ten days' advance written notice, in addition to all actions provided for in this chapter, and without prejudice thereto, enter an order requiring the licensee to cease, desist, and refrain from the violation. After receipt of the advance written notice as-provided-above, any the licensee, within five days from the receipt of such the notice, may file with the superintendent a written demand for a hearing. Hearings shall promptly be held in the office of the superintendent and a cease and desist order shall not be issued until after the hearing. The licensee shall be entitled to present evidence and the testimony of witnesses at the hearing.

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The superintendent by counsel of the attorney general may commence an action in the district court, in the name of the state of Iowa as plaintiff on the relation of the

superintendent to restrain and enjoin any licensee from violating this chapter--chapter-536B, or rules adopted under either pursuant to this chapter, or to restrain and enjoin any person, copartnership, firm, or corporation from engaging in the business of operating an industrial loan company without obtaining a license as required by this chapter.

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The banking division shall regulate and supervise banks under chapter 524, regulated loan companies under chapter 536, and industrial loan companies under chapter 536A, and the industrial loan thrift guaranty corporation of Iowa under chapter 536B; and shall perform other duties assigned to the

division by law. The division is headed by the superintendent of banking who ~~shall be~~ is appointed pursuant to section 524.201. The state banking board shall perform duties within the division as prescribed by law.

Sec. 6. Chapter 536B, Code 1991, is repealed.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 310, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *April 29*, 1991

TERRY E. BRANSTAD
Governor