

Substituted for SF 2407
4-18-96
(P. 1438)

MAR 5 1996

Place On Calendar

HOUSE FILE **2453**
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 724)

Passed House, ^(P. 1601) Date 4/12/96 Passed Senate, ^(P. 1439) Date 4-18-96
Vote: Ayes 92 Nays 0 Vote: Ayes 48 Nays 0
Approved 4/24/96

A BILL FOR

1 An Act relating to the regulation of industrial loan companies by
2 establishing certain requirements applicable to a change of
3 control, providing for the appointment of the superintendent
4 or the federal deposit insurance corporation as receiver, and
5 requiring an industrial loan company to obtain federal deposit
6 insurance for certain debt instruments, and making a penalty
7 applicable.

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

9
10

HOUSE FILE 2453

H-5732

1 Amend House File 2453 as follows:
2 1. Page 3, line 6, by inserting after the word
3 "industrial" the following: "loan".

By NUTT of Woodbury

H-5732 FILED MARCH 28, 1996

Adopted 4-12-96
(P. 1601)

18
19
20
21
22
23

HF 2453

1 Section 1. Section 536A.12, Code 1995, is amended to read
2 as follows:

3 536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF
4 LOCATION -- CHANGE OF CONTROL.

5 1. Each such license remains in full force and effect
6 until surrendered, revoked, or suspended, or until there is a
7 change of control on or after January 1, 1996. A licensee
8 shall, on or before the second day of January, shall pay to
9 the superintendent the sum of fifty dollars as an annual
10 license fee for the succeeding calendar year. When a licensee
11 changes its place of business from one location to another in
12 the same city, it shall at once give written notice to the
13 superintendent who shall attach to the license in writing the
14 superintendent's record of the change and the date of the
15 change, which is authority for the operation of the business
16 under that license at the new place of business.

17 2. A person who proposes to purchase or otherwise acquire,
18 directly or indirectly, any of the outstanding shares of an
19 industrial loan company which would result in a change of
20 control of the industrial loan company, shall first apply in
21 writing to the superintendent for a certificate of approval
22 for the proposed change of control. The superintendent shall
23 grant the certificate if the superintendent is satisfied that
24 the person who proposes to obtain control of the industrial
25 loan company is qualified by character, experience, and
26 financial responsibility to control and operate the industrial
27 loan company in a sound and legal manner, and that the
28 interests of the thrift certificate holders, creditors, and
29 shareholders of the industrial loan company, and of the public
30 generally, shall not be jeopardized by the proposed change of
31 control. If a board member of the industrial loan company has
32 reason to believe any of the requirements of this subsection
33 have not been complied with, the board member shall promptly
34 report in writing such facts to the superintendent. If there
35 is any doubt as to whether a change in the ownership of the

1 outstanding shares is sufficient to result in control of the
2 industrial loan company, or to effect a change in the control
3 of the industrial loan company, such doubt shall be resolved
4 in favor of reporting the facts to the superintendent.

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

12 b. Notwithstanding the provisions of paragraph "a", a
13 change of control is deemed to occur two years after the death
14 of the majority shareholder, whether the shareholder's shares
15 of the industrial loan company are held in a revocable trust
16 or otherwise.

17 Sec. 2. Section 536A.19, Code 1995, is amended to read as
18 follows:

19 536A.19 RECEIVERSHIP -- LIQUIDATION.

20 1. If the superintendent ~~shall-revoke~~ revokes the license
21 of any industrial loan company the superintendent shall
22 promptly report the revocation to the attorney general ~~of-Iowa~~
23 who may apply to the district court of the county in which the
24 licensee had conducted its business for the appointment of a
25 receiver to take possession of the assets of the corporation
26 for the purpose of liquidating its affairs. The court shall
27 appoint the superintendent as receiver unless the
28 superintendent has tendered the appointment to the federal
29 deposit insurance corporation, in which case the court shall
30 appoint the federal deposit insurance corporation as receiver.
31 The affairs of the industrial loan company, after such
32 appointment, shall be under the direction of the court. The
33 attorney general shall represent the superintendent in all
34 proceedings connected with the receivership.

35 2. When an insured industrial loan company has ceased to

1 carry on its business, the superintendent may tender the
2 appointment as receiver of the insured industrial loan company
3 to the federal deposit insurance corporation. If the federal
4 deposit insurance corporation accepts the appointment as
5 receiver, the rights of depositors and other creditors of the
6 insured industrial company shall be determined in accordance
7 with the laws of this state.

8 3. The federal deposit insurance corporation as receiver
9 shall possess all of the powers, rights, and privileges of the
10 superintendent in connection with the liquidation.

11 4. If the federal deposit insurance corporation pays or
12 makes available for payment the insured deposit liabilities of
13 an insured industrial loan company, the federal deposit
14 insurance corporation, whether or not it has become receiver,
15 shall be subrogated to all rights of the owners of such
16 deposits against the insured industrial loan company in the
17 same manner and to the same extent as subrogation of the
18 federal deposit insurance corporation is provided for in
19 applicable federal law with respect to a national bank.

20 Sec. 3. Section 536A.22, Code 1995, is amended to read as
21 follows:

22 536A.22 THRIFT CERTIFICATES.

23 Licensed industrial loan companies may sell senior debt to
24 the general public in the form of thrift certificates,
25 installment thrift certificates, certificates of indebtedness,
26 promissory notes, or similar evidences of indebtedness if such
27 debt instruments are insured by a federal deposit insurance
28 agency. Licensees selling debt instruments on January 1,
29 1996, may continue to do so without obtaining federal deposit
30 insurance until there is a change of control of the licensee
31 which occurs on or after January 1, 1996. If there is a
32 change of control of a licensee on or after January 1, 1996,
33 and the licensee has sold senior debt instruments that are not
34 insured by a federal deposit insurance agency, such
35 outstanding senior debt instruments that do not have a stated

1 maturity date shall be redeemed within six months of the date
2 of the change of control. Such outstanding senior debt
3 instruments with stated maturity dates shall be redeemed on
4 their stated maturity dates.

5 PARAGRAPH DIVIDED. The total amount of such thrift
6 certificates, installment thrift certificates, certificates of
7 indebtedness, promissory notes, or similar evidences of
8 indebtedness outstanding and in the hands of the general
9 public shall not at any time exceed ten times the total amount
10 of capital, surplus, undivided profits, and subordinated debt
11 that gives priority to such securities of the issuing
12 industrial loan company. The sale of such securities is
13 subject to the provisions of chapter 502 and rules adopted by
14 the superintendent of banking pursuant to chapter 17A, and
15 shall not be construed to be exempt by reason of the
16 provisions of section 502.202, subsection 10, except that the
17 sale of thrift certificates or installment thrift certificates
18 which are redeemable by the holder either upon demand or
19 within a period not in excess of five years are exempt from
20 sections 502.201 and 502.602.

21 For purposes of this section, "control" means control as
22 defined in section 524.103.

23 **EXPLANATION**

24 This bill amends provisions relating to industrial loan
25 companies. The bill provides that a person who proposes to
26 purchase or otherwise acquire, directly or indirectly, any of
27 the outstanding shares of an industrial loan company which
28 would result in a change of control, must first apply to the
29 superintendent of banking for a certificate of approval.

30 The bill provides for the appointment of the superintendent
31 or the federal deposit insurance corporation as receiver of an
32 industrial loan company for purposes of liquidating the assets
33 of the industrial loan company. If the federal deposit
34 insurance corporation pays or makes available for payment the
35 insured deposit liabilities of such company, the federal

1 deposit insurance corporation is subrogated to the rights of
2 the owners of such deposits.

3 The bill also requires that an industrial loan company
4 which sells senior debt to the general public in the form of
5 thrift certificates, installment thrift certificates,
6 certificates of indebtedness, promissory notes, or similar
7 evidences of indebtedness shall insure the debt instruments by
8 a federal deposit insurance agency. An industrial loan
9 company selling such debt instruments on January 1, 1996, may
10 continue to do so without obtaining such insurance until there
11 is a change in control of the industrial loan company which
12 occurs on or after that date. The bill provides that if there
13 is a change in control after January 1, 1996, and the
14 industrial loan company has sold senior debt instruments which
15 are not insured by a federal deposit insurance agency, the
16 instruments which do not have a stated maturity date must be
17 redeemed within six months of the date of the change of
18 control and the instruments with stated maturity dates must be
19 redeemed on their stated maturity dates.

20 A person who violates a provision of this Act would also be
21 guilty of a serious misdemeanor as provided in section
22 536A.27.

23
24
25
26
27
28
29
30
31
32
33
34
35

Nutz - chair

Holveck

~~Metcalfe~~
Cormack

HSB 724

COMMERCE AND REGULATION

Succeeded By

SF (HF) 2453

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON

COMMERCE AND REGULATION

BILL BY CHAIRPERSON METCALF)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the regulation of industrial loan companies by
2 establishing certain requirements applicable to a change of
3 control, providing for the appointment of the superintendent
4 as receiver, and requiring an industrial loan company to
5 obtain federal deposit insurance for certain debt instruments,
6 and making a penalty applicable.

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

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

1 Section 1. Section 536A.12, Code 1995, is amended to read
2 as follows:

3 536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF
4 LOCATION -- CHANGE OF CONTROL.

5 1. Each such license remains in full force and effect
6 until surrendered, revoked, or suspended, or until there is a
7 change of control on or after January 1, 1996, pursuant to
8 subsection 2. A licensee ~~shall~~, on or before the second day
9 of January, shall pay to the superintendent the sum of fifty
10 dollars as an annual license fee for the succeeding calendar
11 year. When a licensee changes its place of business from one
12 location to another in the same city, it shall at once give
13 written notice to the superintendent who shall attach to the
14 license in writing the superintendent's record of the change
15 and the date of the change, which is authority for the
16 operation of the business under that license at the new place
17 of business.

18 2. A person who proposes to purchase or otherwise acquire,
19 directly or indirectly, any of the outstanding shares of an
20 industrial loan company which would result in a change of
21 control of the industrial loan company, shall first apply in
22 writing to the superintendent for a certificate of approval
23 for the proposed change of control. The superintendent shall
24 grant the certificate if the superintendent is satisfied that
25 the person who proposes to obtain control of the industrial
26 loan company is qualified by character, experience, and
27 financial responsibility to control and operate the industrial
28 loan company in a sound and legal manner, and that the
29 interests of the thrift certificate holders, creditors, and
30 shareholders of the industrial loan company, and of the public
31 generally, shall not be jeopardized by the proposed change of
32 control. If a board member of the industrial loan company has
33 reason to believe any of the requirements of this subsection
34 have not been complied with, the board member shall promptly
35 report in writing such facts to the superintendent. As used

1 in this section, "control" means the power, directly or
2 indirectly, to elect a majority of the board of directors of
3 an industrial loan company. If there is any doubt as to
4 whether a change in the ownership of the outstanding shares is
5 sufficient to result in control of the industrial loan
6 company, or to effect a change in the control of the
7 industrial loan company, such doubt shall be resolved in favor
8 of reporting the facts to the superintendent.

9 Sec. 2. Section 536A.19, Code 1995, is amended to read as
10 follows:

11 536A.19 RECEIVERSHIP -- LIQUIDATION.

12 1. If the superintendent shall-revoke revokes the license
13 of any industrial loan company the superintendent shall
14 promptly report the revocation to the attorney general of Iowa
15 who may apply to the district court of the county in which the
16 licensee had conducted its business for the appointment of a
17 receiver to take possession of the assets of the corporation
18 for the purpose of liquidating its affairs. The court shall
19 appoint the superintendent as receiver unless the
20 superintendent has tendered the appointment to the federal
21 deposit insurance corporation, in which case the court shall
22 appoint the federal deposit insurance corporation as receiver.
23 The affairs of the industrial loan company, after such
24 appointment, shall be under the direction of the court. The
25 attorney general shall represent the superintendent in all
26 proceedings connected with the receivership.

27 2. When an insured industrial loan company has ceased to
28 carry on its business, the superintendent may tender the
29 appointment as receiver of the insured industrial loan company
30 to the federal deposit insurance corporation. If the federal
31 deposit insurance corporation accepts the appointment as
32 receiver, the rights of depositors and other creditors of the
33 insured industrial company shall be determined in accordance
34 with the laws of this state.

35 3. The federal deposit insurance corporation as receiver

1 shall possess all of the powers, rights, and privileges of the
2 superintendent in connection with the liquidation.

3 4. If the federal deposit insurance corporation pays or
4 makes available for payment the insured deposit liabilities of
5 an insured industrial loan company, the federal deposit
6 insurance corporation, whether or not it has become receiver,
7 shall be subrogated to all rights of the owners of such
8 deposits against the insured industrial loan company in the
9 same manner and to the same extent as subrogation of the
10 federal deposit insurance corporation is provided for in
11 applicable federal law with respect to a national bank.

12 Sec. 3. Section 536A.22, Code 1995, is amended to read as
13 follows:

14 536A.22 THRIFT CERTIFICATES.

15 Licensed industrial loan companies may sell senior debt to
16 the general public in the form of thrift certificates,
17 installment thrift certificates, certificates of indebtedness,
18 promissory notes, or similar evidences of indebtedness if such
19 debt instruments are insured by a federal deposit insurance
20 agency. Licensees selling debt instruments on January 1,
21 1996, may continue to do so without obtaining federal deposit
22 insurance until there is a change of control of the licensee
23 pursuant to section 536A.12, subsection 2, which occurs on or
24 after January 1, 1996. The total amount of such thrift
25 certificates, installment thrift certificates, certificates of
26 indebtedness, promissory notes, or similar evidences of
27 indebtedness outstanding and in the hands of the general
28 public shall not at any time exceed ten times the total amount
29 of capital, surplus, undivided profits, and subordinated debt
30 that gives priority to such securities of the issuing
31 industrial loan company. The sale of such securities is
32 subject to the provisions of chapter 502 and rules adopted by
33 the superintendent of banking pursuant to chapter 17A, and
34 shall not be construed to be exempt by reason of the
35 provisions of section 502.202, subsection 10, except that the

1 sale of thrift certificates or installment thrift certificates
2 which are redeemable by the holder either upon demand or
3 within a period not in excess of five years are exempt from
4 sections 502.201 and 502.602.

5 EXPLANATION

6 This bill amends provisions relating to industrial loan
7 companies. The bill provides that a person who proposes to
8 purchase or otherwise acquire, directly or indirectly, any of
9 the outstanding shares of an industrial loan company which
10 would result in a change of control, must first apply to the
11 superintendent of banking for a certificate of approval.

12 The bill provides for the appointment of the superintendent
13 or the federal deposit insurance corporation as receiver of an
14 industrial loan company for purposes of liquidating the assets
15 of the industrial loan company. If the federal deposit
16 insurance corporation pays or makes available for payment the
17 insured deposit liabilities of such company, the federal
18 deposit insurance corporation is subrogated to the rights of
19 the owners of such deposits.

20 The bill also requires that an industrial loan company
21 which sells senior debt to the general public in the form of
22 thrift certificates, installment thrift certificates,
23 certificates of indebtedness, promissory notes, or similar
24 evidences of indebtedness shall insure the debt instruments by
25 a federal deposit insurance agency. An industrial loan
26 company selling such debt instruments on January 1, 1996, may
27 continue to do so without obtaining such insurance until there
28 is a change in control of the industrial loan company which
29 occurs on or after that date.

30 A person who violates a provision of this Act would also be
31 guilty of a serious misdemeanor as provided in section
32 536A.27.

33
34
35

HOUSE FILE 2453

AN ACT

RELATING TO THE REGULATION OF INDUSTRIAL LOAN COMPANIES BY ESTABLISHING CERTAIN REQUIREMENTS APPLICABLE TO A CHANGE OF CONTROL, PROVIDING FOR THE APPOINTMENT OF THE SUPERINTENDENT OR THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER, AND REQUIRING AN INDUSTRIAL LOAN COMPANY TO OBTAIN FEDERAL DEPOSIT INSURANCE FOR CERTAIN DEBT INSTRUMENTS, AND MAKING A PENALTY APPLICABLE.

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

Section 1. Section 536A.12, Code 1995, is amended to read as follows:

536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF LOCATION -- CHANGE OF CONTROL.

1. Each such license remains in full force and effect until surrendered, revoked, or suspended, or until there is a change of control on or after January 1, 1996. A licensee shall, on or before the second day of January, shall pay to the superintendent the sum of fifty dollars as an annual license fee for the succeeding calendar year. When a licensee changes its place of business from one location to another in the same city, it shall at once give written notice to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date of the change, which is authority for the operation of the business under that license at the new place of business.

2. A person who proposes to purchase or otherwise acquire, directly or indirectly, any of the outstanding shares of an industrial loan company which would result in a change of control of the industrial loan company, shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control. The superintendent shall grant the certificate if the superintendent is satisfied that the person who proposes to obtain control of the industrial loan company is qualified by character, experience, and financial responsibility to control and operate the industrial loan company in a sound and legal manner, and that the interests of the thrift certificate holders, creditors, and shareholders of the industrial loan company, and of the public generally, shall not be jeopardized by the proposed change of control. If a board member of the industrial loan company has reason to believe any of the requirements of this subsection have not been complied with, the board member shall promptly report in writing such facts to the superintendent. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control of the industrial loan company, or to effect a change in the control of the industrial loan company, such doubt shall be resolved in favor of reporting the facts to the superintendent.

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

b. Notwithstanding the provisions of paragraph "a", a change of control is deemed to occur two years after the death of the majority shareholder, whether the shareholder's shares of the industrial loan company are held in a revocable trust or otherwise.

Sec. 2. Section 536A.19, Code 1995, is amended to read as follows:

536A.19 RECEIVERSHIP -- LIQUIDATION.

1. If the superintendent ~~shall revoke~~ revokes the license of any industrial loan company the superintendent shall promptly report the revocation to the attorney general ~~of Iowa~~ who may apply to the district court of the county in which the licensee had conducted its business for the appointment of a receiver to take possession of the assets of the corporation for the purpose of liquidating its affairs. The court shall appoint the superintendent as receiver unless the superintendent has tendered the appointment to the federal deposit insurance corporation, in which case the court shall appoint the federal deposit insurance corporation as receiver. The affairs of the industrial loan company, after such appointment, shall be under the direction of the court. The attorney general shall represent the superintendent in all proceedings connected with the receivership.

2. When an insured industrial loan company has ceased to carry on its business, the superintendent may tender the appointment as receiver of the insured industrial loan company to the federal deposit insurance corporation. If the federal deposit insurance corporation accepts the appointment as receiver, the rights of depositors and other creditors of the insured industrial loan company shall be determined in accordance with the laws of this state.

3. The federal deposit insurance corporation as receiver shall possess all of the powers, rights, and privileges of the superintendent in connection with the liquidation.

4. If the federal deposit insurance corporation pays or makes available for payment the insured deposit liabilities of an insured industrial loan company, the federal deposit insurance corporation, whether or not it has become receiver, shall be subrogated to all rights of the owners of such deposits against the insured industrial loan company in the

same manner and to the same extent as subrogation of the federal deposit insurance corporation is provided for in applicable federal law with respect to a national bank.

Sec. 3. Section 536A.22, Code 1995, is amended to read as follows:

536A.22 THRIFT CERTIFICATES.

Licensed industrial loan companies may sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness if such debt instruments are insured by a federal deposit insurance agency. Licensees selling debt instruments on January 1, 1996, may continue to do so without obtaining federal deposit insurance until there is a change of control of the licensee which occurs on or after January 1, 1996. If there is a change of control of a licensee on or after January 1, 1996, and the licensee has sold senior debt instruments that are not insured by a federal deposit insurance agency, such outstanding senior debt instruments that do not have a stated maturity date shall be redeemed within six months of the date of the change of control. Such outstanding senior debt instruments with stated maturity dates shall be redeemed on their stated maturity dates.

PARAGRAPH DIVIDED. The total amount of such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits, and subordinated debt that gives priority to such securities of the issuing industrial loan company. The sale of such securities is subject to the provisions of chapter 502 and rules adopted by the superintendent of banking pursuant to chapter 17A, and shall not be construed to be exempt by reason of the provisions of section 502.202, subsection 10, except that the

sale of thrift certificates or installment thrift certificates which are redeemable by the holder either upon demand or within a period not in excess of five years are exempt from sections 502.201 and 502.602.

For purposes of this section, "control" means control as defined in section 524.103.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2453, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/24, 1996

TERRY E. BRANSTAD
Governor

HF 2453