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COMMERCE, REGULATION & LABOR

HOUSE FILE 2218
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LENSING

(COMPANION TO LSB 5766SS
BY BOLKCOM)

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

A BILL FOR

1 An Act relating to consumer loans, including providing for a
2 maximum finance charge and certain reporting requirements for
3 loans secured by a certificate of title to a motor vehicle,
4 providing for an increase in fees for supervised loans, and
5 making penalties applicable.

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

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1 Section 1. Section 536.2, unnumbered paragraph 1, Code
2 2005, is amended to read as follows:

3 Application for such license shall be in writing, under
4 oath, and in the form prescribed by the superintendent, and
5 shall contain the name and the address ~~(both, both~~ of the
6 residence and place of ~~business)~~ business, of the applicant,
7 and if the applicant is a copartnership or association, of
8 every member thereof, and if a corporation, of each officer
9 and director thereof; also the county and municipality with
10 street and number, if any, of the place where the business of
11 making loans under the provisions of this chapter is to be
12 conducted and such further relevant information as the
13 superintendent may require. Such applicant at the time of
14 making such application shall pay to the superintendent the
15 sum of fifty one hundred dollars if the liquid assets of the
16 applicant are not in excess of twenty thousand dollars, and
17 the sum of one hundred fifty dollars if the liquid assets of
18 the applicant are in excess of twenty thousand dollars, as a
19 fee for investigating the application and the additional sum
20 of one hundred twenty-five seventy-five dollars if the liquid
21 assets of the applicant are not in excess of twenty thousand
22 dollars, and two three hundred fifty dollars if the liquid
23 assets of the applicant are in excess of twenty thousand
24 dollars, as an annual license fee.

25 Sec. 2. Section 536.16, subsection 1, Code 2005, is
26 amended to read as follows:

27 1. Section 536.2 to the extent it requires payment of an
28 annual license fee in excess of two three hundred fifty
29 dollars and requires a person to prove the person has any
30 dollar amount of liquid assets or the use of any dollar amount
31 in the conduct of the person's business at the licensed place
32 of business.

33 Sec. 3. Section 537.2401, subsection 1, Code 2005, is
34 amended to read as follows:

35 1. Except as provided with respect to a finance charge for

1 loans pursuant to open end credit under section 537.2402 and
2 loans secured by a certificate of title to a motor vehicle
3 under section 537.2403, a lender may contract for and receive
4 a finance charge not exceeding the maximum charge permitted by
5 the laws of this state or of the United States for similar
6 lenders, and, in addition, with respect to a consumer loan, a
7 supervised financial organization or a mortgage lender may
8 contract for and receive a finance charge, calculated
9 according to the actuarial method, not exceeding twenty-one
10 percent per year on the unpaid balance of the amount financed.
11 ~~This~~ Except as provided in section 537.2403, this subsection
12 does not prohibit a lender from contracting for and receiving
13 a finance charge exceeding twenty-one percent per year on the
14 unpaid balance of the amount financed on consumer loans if
15 authorized by other provisions of the law.

16 Sec. 4. Section 537.2402, subsection 1, Code 2005, is
17 amended to read as follows:

18 1. If authorized to make supervised loans, a creditor may
19 contract for and receive a finance charge without limitation
20 as to amount or rate with respect to a loan pursuant to open-
21 end credit as permitted in this section, except as provided in
22 section 537.2403.

23 Sec. 5. NEW SECTION. 537.2403 FINANCE CHARGE AND
24 REPORTING REQUIREMENTS FOR CONSUMER LOANS SECURED BY A MOTOR
25 VEHICLE.

26 1. A lender shall not contract for or receive a finance
27 charge exceeding twenty-one percent per year on the unpaid
28 balance of the amount financed for a loan of money secured by
29 a certificate of title to a motor vehicle used for personal,
30 family, or household purposes except as authorized under
31 chapter 536A. A consumer who is charged a finance charge in
32 excess of the limitation in this section may seek any remedies
33 available pursuant to this chapter for an excess charge.

34 2. It shall be a violation of this section and an unlawful
35 practice under section 714.16 to attempt to avoid application

1 of this section by structuring a loan of money secured by a
2 certificate of title to a motor vehicle as a sale, sale and
3 repurchase, sale and lease, pawn, rental purchase, lease, or
4 other type of transaction with the intent to avoid application
5 of this section or any other applicable provision of this
6 chapter.

7 3. The superintendent of banking shall annually collect,
8 and each lender providing loans secured by a certificate of
9 title to a motor vehicle shall provide, information regarding
10 at least all of the following:

11 a. The total number of loans secured by a certificate of
12 title to a motor vehicle by the lender.

13 b. The total monetary amount of loans secured by a
14 certificate of title to a motor vehicle at each location
15 providing such loans.

16 c. Affiliate relationships, if any, of each lender
17 providing loans secured by a certificate of title to a motor
18 vehicle with any financial institutions.

19 d. The age, ethnicity, and annual income of each consumer
20 of a loan secured by a certificate of title to a motor
21 vehicle.

22 e. The total number of motor vehicles repossessed as a
23 result of a loan secured by a certificate of title to a motor
24 vehicle.

25 EXPLANATION

26 This bill relates to consumer loans including loans secured
27 by a certificate of title to a motor vehicle and supervised
28 loans.

29 The bill increases the application and license fees by \$50
30 for a license to provide supervised loans under Code chapter
31 536. Under current law, loans secured by a certificate of
32 title to a motor vehicle are regulated as supervised loans
33 under Code chapter 536, and lenders must be licensed under
34 Code chapter 536 to provide loans secured by a certificate of
35 title to a motor vehicle.

1 The bill prohibits a lender from contracting for or
2 receiving a finance charge which exceeds 21 percent per year
3 on the unpaid balance of a loan for money which is secured by
4 a certificate of title to a motor vehicle. The remedies under
5 Code chapter 537 for excess charges are available to consumers
6 who are charged a finance charge in excess of 21 percent per
7 year for such a consumer loan. The bill provides that an
8 attempt to avoid application of the maximum finance charge on
9 a loan secured by a certificate of title to a motor vehicle by
10 structuring the transaction as a sale, sale and repurchase,
11 sale and lease, pawn, rental purchase, or lease with the
12 intent to avoid the maximum finance charge shall be considered
13 a violation of the maximum finance charge and shall be
14 considered a consumer fraud subject to civil penalties and
15 enforcement pursuant to Code section 714.16.

16 Under current law, a consumer is not obligated to pay an
17 excess charge and is entitled to a refund of any excess charge
18 paid. If a consumer entitled to a refund is refused the
19 refund, the consumer may recover from the creditor or other
20 person liable in a civil action the excess charge and a
21 penalty of not less than \$100 or more than \$1,000. Under
22 current law, a person who willfully and knowingly makes an
23 excess charge is guilty of a serious misdemeanor. A serious
24 misdemeanor is punishable by confinement for no more than one
25 year and a fine of at least \$250 but not more than \$1,500.

26 The bill provides for certain reporting requirements by
27 lenders who provide loans secured by a certificate of title to
28 a motor vehicle. The superintendent of banking shall annually
29 collect information regarding the number of loans secured, the
30 total monetary amount of such loans at each location,
31 affiliate relationships of the lender to financial
32 institutions, certain demographic information of consumers of
33 such loans, and the total number of motor vehicles repossessed
34 as a result of such loans.

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