

House File 50

HOUSE FILE _____
BY WISE

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

A BILL FOR

1 An Act providing for the licensing and regulation of motor
2 vehicle equity line of credit lenders, and providing for fees
3 and penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1626HH 82
6 rn/je/5

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1 1 Section 1. NEW SECTION. 536B.1 PURPOSE.
1 2 It is the policy of this state and the purpose of this
1 3 chapter to provide for a sound system of the business of
1 4 providing motor vehicle equity lines of credit by providing
1 5 for the licensing of motor vehicle equity line of credit
1 6 lenders by the superintendent.
1 7 Sec. 2. NEW SECTION. 536B.2 DEFINITIONS.
1 8 As used in this chapter, unless the context otherwise
1 9 requires:
1 10 1. "Borrower" means the person obligated to repay the loan
1 11 obligation under a motor vehicle equity line of credit
1 12 agreement.
1 13 2. "Control" means possession, direct or indirect, of the
1 14 power to direct or cause the direction of management and
1 15 policies of an entity whether through the ownership of voting
1 16 securities by contract or otherwise; provided, that a person
1 17 shall not be deemed to control an entity solely on account of
1 18 being a director, officer, or employee of such entity.
1 19 For purposes of this subsection, a person who, directly or
1 20 indirectly, owns, controls, holds the power to vote, or holds
1 21 proxies representing twenty-five percent or more of the then
1 22 outstanding voting securities issued by an entity is presumed
1 23 to control such entity.
1 24 For purposes of this subsection, the superintendent may
1 25 determine whether a person, in fact, controls an entity.
1 26 3. "Controlling person" means any person in control of a
1 27 motor vehicle equity line of credit lender.
1 28 4. "Lender" means a motor vehicle equity line of credit
1 29 lender.
1 30 5. "Motor vehicle" means any automobile, motorcycle,
1 31 mobile home, truck, van, or other vehicle operated on public
1 32 highways and streets.
1 33 6. "Motor vehicle equity line of credit agreement" means
1 34 an agreement under which a lender extends an open-end credit
1 35 plan or loan to a consumer that is secured by an interest in a
2 1 motor vehicle and imposes interest on the outstanding unpaid
2 2 balance.
2 3 7. "Motor vehicle equity line of credit lender" means a
2 4 person engaged in the business of making motor vehicle equity
2 5 line of credit agreements with borrowers.
2 6 8. "Motor vehicle equity line of credit office" means the
2 7 location at which a motor vehicle equity line of credit lender
2 8 regularly conducts business.
2 9 9. "Superintendent" means either of the following:
2 10 a. The superintendent of credit unions for licensees that
2 11 are credit unions or an affiliate of a credit union.
2 12 b. The superintendent of banking for all other licensees
2 13 under this chapter.
2 14 Sec. 3. NEW SECTION. 536B.3 LICENSE REQUIRED.
2 15 1. A person shall not engage in the business of motor
2 16 vehicle equity line of credit lending without having first
2 17 obtained a license from the superintendent under this chapter.
2 18 A separate license shall be required for each motor vehicle
2 19 equity line of credit office from which such business is

2 20 conducted.

2 21 2. Any motor vehicle equity line of credit agreement made
2 22 without first having obtained a license is void and the person
2 23 making the agreement forfeits the right to collect any moneys,
2 24 including principal, interest, and any other fee paid by the
2 25 borrower in connection with the agreement. The person making
2 26 the agreement shall return to the borrower the titled motor
2 27 vehicle pledged, or the fair market value of such motor
2 28 vehicle, and all principal, interest, and any other fees paid
2 29 by the borrower.

2 30 Sec. 4. NEW SECTION. 536B.4 AUTHORITY OF LICENSED MOTOR
2 31 VEHICLE EQUITY LINE OF CREDIT LENDERS.

2 32 1. A motor vehicle equity line of credit lender licensed
2 33 pursuant to this chapter has the power to make motor vehicle
2 34 equity line of credit agreements in accordance with the
2 35 provisions of this chapter.

3 1 2. A motor vehicle equity line of credit lender licensed
3 2 pursuant to this chapter shall not have the powers enumerated
3 3 in this chapter unless the motor vehicle equity line of credit
3 4 agreement complies with section 536B.9. A motor vehicle
3 5 equity line of credit lender exercising any of the powers in
3 6 compliance with this chapter shall not be deemed in violation
3 7 of any usury law.

3 8 Sec. 5. NEW SECTION. 536B.5 ELIGIBILITY REQUIREMENTS FOR
3 9 LICENSE == APPLICATIONS == ISSUANCE OF LICENSE.

3 10 1. To qualify for a license under this chapter, an
3 11 applicant shall satisfy all of the following requirements:

3 12 a. The applicant has a tangible net worth of not less than
3 13 seventy-five thousand dollars for each motor vehicle equity
3 14 line of credit office.

3 15 b. The financial responsibility, financial condition,
3 16 business experience, character, and general fitness of the
3 17 applicant shall reasonably warrant the belief that the
3 18 applicant's business will be conducted lawfully and fairly.
3 19 In determining whether the requirements of this paragraph have
3 20 been met, and for the purpose of investigating compliance with
3 21 this chapter, the superintendent may review and approve all of
3 22 the following:

3 23 (1) The relevant business records and the capital adequacy
3 24 of the applicant.

3 25 (2) The financial responsibility, financial condition,
3 26 business experience, character, and general fitness of any
3 27 person who is a director, officer, or five percent or more
3 28 shareholder of the applicant, or owns or controls the
3 29 applicant.

3 30 (3) Any adjudication against the applicant or any person
3 31 referred to in subparagraph (2) of any criminal activity, any
3 32 fraud or other act of personal dishonesty, or any act,
3 33 omission, or practice which constitutes a breach of a
3 34 fiduciary duty.

3 35 2. The requirements set forth in subsection 1 are
4 1 continuing in nature.

4 2 3. Each application for a license shall be in writing and
4 3 under oath to the superintendent, in a form prescribed by the
4 4 superintendent, and shall include all of the following
4 5 information:

4 6 a. The legal name, residence and business address of the
4 7 applicant and, if the applicant is an entity, of every member,
4 8 partner, officer, managing employee, director, trustee, and
4 9 person who controls the entity.

4 10 b. The address where the registered agent of the applicant
4 11 shall be located, if any.

4 12 c. Other data and information the superintendent may
4 13 reasonably require with respect to the applicant, its
4 14 directors, trustees, officers, members, partners, managing
4 15 employees, or controlling persons.

4 16 4. Each application for a license shall be accompanied by
4 17 all of the following:

4 18 a. A filing fee, in an amount prescribed by the
4 19 superintendent by rule but not to exceed one thousand dollars,
4 20 which shall not be subject to refund but which, if the license
4 21 is granted, shall constitute the license fee for the first
4 22 license year or part thereof.

4 23 b. An accounting balance sheet for the immediately
4 24 preceding fiscal year prepared in accordance with generally
4 25 accepted accounting principles.

4 26 c. A surety bond in the principal sum of twenty-five
4 27 thousand dollars per motor vehicle equity line of credit
4 28 office. The bond shall be in a form satisfactory to the
4 29 superintendent and shall be issued by a bonding company or
4 30 insurance company authorized to do business in this state.

4 31 The bond shall cover the performance of the obligations of the
4 32 applicant and the applicant's agents in connection with loan
4 33 activities under this chapter. An applicant or licensee may,
4 34 in lieu of filing a bond, provide the superintendent with an
4 35 irrevocable letter of credit in the amount of twenty-five
5 1 thousand dollars per motor vehicle equity line of credit
5 2 office, issued by any bank, trust company, savings and loan
5 3 association, or credit union operating in this state in a form
5 4 acceptable to the superintendent.

5 5 5. Upon the filing of an application in a form prescribed
5 6 by the superintendent, accompanied by the fee and documents
5 7 required in this section, the superintendent shall investigate
5 8 to ascertain whether the qualifications prescribed by this
5 9 section have been satisfied. If the superintendent finds that
5 10 the qualifications have been satisfied, the superintendent
5 11 shall issue to the applicant a license to engage in the motor
5 12 vehicle equity line of credit lending business in this state.

5 13 6. If the superintendent determines that an applicant is
5 14 not qualified to receive a license, the superintendent shall
5 15 notify the applicant in writing that the application has been
5 16 denied, stating the basis for denial. If the superintendent
5 17 denies an application, or if the superintendent fails to act
5 18 on an application within ninety days after the filing of a
5 19 properly completed application, the applicant may make written
5 20 demand to the superintendent for a hearing before the
5 21 superintendent on the question of whether the license should
5 22 be granted. Any hearing shall be conducted pursuant to the
5 23 provisions of chapter 17A. A decision of the superintendent
5 24 following any hearing on the denial of license is subject to
5 25 review under chapter 17A.

5 26 7. A license shall be required for each motor vehicle
5 27 equity line of credit office in this state. The license shall
5 28 be conspicuously posted at each motor vehicle equity line of
5 29 credit office of the licensee.

5 30 8. A license is not transferable or assignable except as
5 31 allowed by rule of the superintendent.

5 32 9. A license issued pursuant to this section shall expire
5 33 each year on May 31, unless the licensee submits a timely
5 34 renewal application, or unless earlier surrendered, suspended,
5 35 or revoked pursuant to this chapter. Each license may be
6 1 renewed upon application by the license holder, submitted at
6 2 least thirty days prior to the renewal date, showing continued
6 3 compliance with the requirements of this section and the
6 4 payment to the superintendent of the annual license fee in an
6 5 amount prescribed by the superintendent by rule but not to
6 6 exceed one thousand dollars for each licensed motor vehicle
6 7 equity line of credit office in this state.

6 8 10. The superintendent may establish a biennial licensing
6 9 arrangement for the filing of the application for license
6 10 renewal, but the license fee shall not be payable for more
6 11 than one year at a time.

6 12 Sec. 6. NEW SECTION. 536B.6 NOTICE OF CHANGE IN CONTROL
6 13 AND PRINCIPAL PLACE OF BUSINESS.

6 14 1. Except when a change of control is beyond the control
6 15 of the motor vehicle equity line of credit lender, or in the
6 16 case of an emergency as determined by the superintendent, a
6 17 change in control of a motor vehicle equity line of credit
6 18 lender shall require thirty days prior written notice to the
6 19 superintendent. In the case of a publicly traded corporation,
6 20 such notification shall be made in writing within thirty days
6 21 of the change or acquisition of control of the motor vehicle
6 22 equity line of credit lender.

6 23 2. Upon notification of a change in control, the
6 24 superintendent may require such information as deemed
6 25 necessary to determine whether to approve a new controlling
6 26 person. The superintendent may disapprove the new person for
6 27 any reason the superintendent could deny a license. If the
6 28 superintendent disapproves any person, the superintendent
6 29 shall allow a reasonable time for the licensee to remove such
6 30 person as controlling person.

6 31 3. Costs incurred by the superintendent in investigating a
6 32 change of control notification shall be paid by the person
6 33 requesting such approval.

6 34 4. Whenever control of a motor vehicle equity line of
6 35 credit lender is acquired or exercised in violation of this
7 1 chapter, the licensee of the motor vehicle equity line of
7 2 credit lender may be subject to penalties under section
7 3 536B.16.

7 4 5. Each motor vehicle equity line of credit lender shall
7 5 notify the superintendent fifteen days prior to any change in
7 6 the principal place of business of a motor vehicle equity line

7 7 of credit lender.

7 8 Sec. 7. NEW SECTION. 536B.7 REPORTING REQUIREMENTS.

7 9 1. Within fifteen days of the occurrence of any of the
7 10 events listed below, a motor vehicle equity line of credit
7 11 lender shall file a written report with the superintendent
7 12 describing such event and the expected impact on the
7 13 activities of the motor vehicle equity line of credit lender
7 14 in this state:

7 15 a. The filing for bankruptcy or reorganization by the
7 16 motor vehicle equity line of credit lender.

7 17 b. Any felony indictment or conviction of the motor
7 18 vehicle equity line of credit lender or any of its officers,
7 19 directors, or controlling persons.

7 20 2. Each motor vehicle equity line of credit lender shall
7 21 file a report with the superintendent by May 1 after being
7 22 licensed pursuant to this chapter and every odd numbered year
7 23 thereafter, containing the following information:

7 24 a. The names and addresses of all controlling persons of
7 25 the motor vehicle equity line of credit lender.

7 26 b. Accounting balance sheets as required by the
7 27 superintendent.

7 28 c. If the motor vehicle equity line of credit lender is a
7 29 corporation, the names and addresses of its officers and
7 30 directors; if the motor vehicle equity line of credit lender
7 31 is a partnership, the names and addresses of the partners; and
7 32 if the motor vehicle equity line of credit lender is a limited
7 33 liability company, the names and addresses of the members of
7 34 the limited liability company; or if the motor vehicle equity
7 35 line of credit lender is any other form of entity, the names
8 1 and addresses of all persons who generally manage or control
8 2 the business.

8 3 d. If the motor vehicle equity line of credit lender holds
8 4 two or more licenses or is affiliated with other motor vehicle
8 5 equity line of credit lenders, a composite report may be
8 6 filed.

8 7 3. All reports required under this section shall be filed
8 8 in such form as may reasonably be required by the
8 9 superintendent and shall be sworn to by a responsible officer
8 10 of the motor vehicle equity line of credit lender.

8 11 4. The information submitted by motor vehicle equity line
8 12 of credit lenders pursuant to this section shall be
8 13 confidential and shall not be considered public records under
8 14 chapter 22. However, the superintendent is authorized to
8 15 disclose information obtained pursuant to the authority
8 16 granted under this chapter to any local, state, or federal
8 17 agency as the superintendent deems necessary.

8 18 Sec. 8. NEW SECTION. 536B.8 RECORDS OF LIENS.

8 19 Every motor vehicle equity line of credit lender shall keep
8 20 a numbered record of each and every motor vehicle equity line
8 21 of credit agreement executed by the motor vehicle equity line
8 22 of credit lender and a borrower. Such record, as well as the
8 23 motor vehicle equity line of credit agreement, shall include
8 24 the following information:

8 25 1. The make, model, and year of the motor vehicle pledged
8 26 as security under the agreement.

8 27 2. The vehicle identification number, or other comparable
8 28 identification number, along with the motor vehicle
8 29 registration plate number, if applicable, of the pledged motor
8 30 vehicle.

8 31 3. The name, residential address, date of birth, and
8 32 physical description of the borrower.

8 33 4. The date the motor vehicle equity line of credit
8 34 agreement is executed by the motor vehicle equity line of
8 35 credit lender and the borrower.

9 1 5. The maturity date of the motor vehicle equity line of
9 2 credit agreement which shall not be less than thirty days
9 3 after the motor vehicle equity line of credit agreement is
9 4 executed by the motor vehicle equity line of credit lender and
9 5 the borrower.

9 6 Sec. 9. NEW SECTION. 536B.9 AGREEMENT REQUIREMENTS.

9 7 1. All of the following information shall be printed on a
9 8 motor vehicle equity line of credit agreement:

9 9 a. The name and physical address of the motor vehicle
9 10 equity line of credit lender and office.

9 11 b. In not less than fourteen point bold type, the name and
9 12 address of the superintendent as well as a telephone number to
9 13 which consumers may address complaints.

9 14 c. The following statement in not less than fourteen point
9 15 bold type:

9 16 "THIS LOAN IS NOT INTENDED TO MEET LONG-TERM FINANCIAL
9 17 NEEDS. YOU SHOULD USE THIS LOAN ONLY TO MEET SHORT-TERM CASH

9 18 NEEDS. INTEREST WILL CONTINUE TO ACCRUE AS LONG AS THERE IS A
9 19 BALANCE OUTSTANDING. THIS LOAN IS A HIGHER-INTEREST RATE
9 20 LOAN. YOU SHOULD CONSIDER WHAT OTHER LOWER-COST LOANS MAY BE
9 21 AVAILABLE TO YOU. YOU ARE PLACING AT RISK YOUR CONTINUED
9 22 OWNERSHIP OF THE MOTOR VEHICLE YOU ARE PLEDGING FOR THIS LOAN.
9 23 IF YOU FAIL TO REPAY THE LOAN IN ACCORDANCE WITH THE TERMS OF
9 24 THE AGREEMENT, THE LENDER MAY TAKE POSSESSION OF THE MOTOR
9 25 VEHICLE PLEDGED AND SELL IT IN THE MANNER PROVIDED BY LAW.
9 26 YOU HAVE A LEGAL RIGHT OF RESCISSION. THIS MEANS YOU MAY CANCEL
9 27 YOUR AGREEMENT AT NO COST TO YOU BY RETURNING THE LOAN
9 28 PROCEEDS YOU BORROWED BY THE NEXT BUSINESS DAY AFTER THE DATE
9 29 OF YOUR LOAN."

9 30 d. The following statement:

9 31 "The borrower represents and warrants, to the best of the
9 32 borrower's knowledge, that the pledged motor vehicle is not
9 33 stolen and has no liens or encumbrances against it, the
9 34 borrower has the right to enter into this transaction, and the
9 35 borrower will not apply for a duplicate certificate of title
10 1 while the motor vehicle equity line of credit agreement is in
10 2 effect."

10 3 e. In not less than fourteen point type, an amortization
10 4 schedule showing the total of each payment and what dollar
10 5 amount of each payment represents payment of interest and what
10 6 dollar amount represents payment of principal.

10 7 2. The borrower shall sign the motor vehicle equity line
10 8 of credit agreement and shall be provided with a copy of such
10 9 agreement. The motor vehicle equity line of credit agreement
10 10 shall also be signed by the motor vehicle equity line of
10 11 credit lender's employee or agent. Each signature shall be
10 12 accompanied by the date and time of signing.

10 13 3. A borrower may cancel a motor vehicle equity line of
10 14 credit agreement without cost by returning the full principal
10 15 amount borrowed to the motor vehicle equity line of credit
10 16 lender within twenty-four hours after signing an agreement
10 17 pursuant to subsection 2.

10 18 Sec. 10. NEW SECTION. 536B.10 FEES AND CHARGES ==
10 19 DISCLOSURE FORM.

10 20 1. For each thirty-day lending period under a motor
10 21 vehicle equity line of credit agreement, a lender shall not
10 22 charge a fee or interest in excess of eight dollars on each
10 23 one hundred dollar increment of the remaining principal
10 24 balance or pro rata for any portion of one hundred dollars
10 25 borrowed.

10 26 2. A motor vehicle equity line of credit lender may assess
10 27 and collect from a borrower amounts paid to a governmental
10 28 agency to record the lender's lien on the certificate of title
10 29 to the motor vehicle pledged as security under a motor vehicle
10 30 equity line of credit agreement, and amounts paid to
10 31 independent third parties to repossess and sell the pledged
10 32 motor vehicle.

10 33 3. In accordance with chapter 17A, the superintendent
10 34 shall adopt rules requiring each motor vehicle equity line of
10 35 credit lender to issue a standardized consumer notification
11 1 and disclosure form in compliance with federal truth-in-
11 2 lending laws prior to entering into any motor vehicle equity
11 3 line of credit agreement. The required style, content, and
11 4 method of executing the form shall be prescribed by rule and
11 5 shall be designed to ensure that the borrower, prior to
11 6 entering into such agreement, receives and acknowledges an
11 7 accurate and complete notification and disclosure of the
11 8 itemized and total amounts of all interest, fees, charges, and
11 9 other costs that will or potentially could be imposed as a
11 10 result of such agreement.

11 11 Sec. 11. NEW SECTION. 536B.11 RIGHT TO REDEEM.

11 12 Except as otherwise provided in this chapter, a borrower,
11 13 upon presentation of suitable identification, shall be
11 14 entitled to redeem the motor vehicle pledged as security under
11 15 the motor vehicle equity line of credit agreement or
11 16 certificate of title described therein upon satisfaction of
11 17 all outstanding obligations pursuant to the motor vehicle
11 18 equity line of credit agreement.

11 19 Sec. 12. NEW SECTION. 536B.12 MANDATORY PRINCIPAL
11 20 REDUCTION PAYMENT.

11 21 1. For each payment period under a motor vehicle equity
11 22 line of credit agreement, the borrower shall be required to
11 23 make a principal reduction payment in an amount equal to at
11 24 least ten percent of the principal outstanding on the motor
11 25 vehicle equity line of credit agreement as of the last payment
11 26 date in addition to interest and fees authorized by this
11 27 chapter.

11 28 2. Interest and fees authorized by this chapter at each

11 29 successive billing cycle shall be calculated on the
11 30 outstanding principal balance.
11 31 3. Payments in excess of a principal reduction payment
11 32 shall be credited to the outstanding principal on the day
11 33 received. If, on a payment date, the borrower has not made
11 34 previous principal reduction payments adequate to satisfy the
11 35 current required principal reduction payment, and the borrower
12 1 cannot repay at least ten percent of the principal balance
12 2 outstanding as of the billing date and any outstanding
12 3 interest and fees authorized by this chapter, the motor
12 4 vehicle equity line of credit lender may, but shall not be
12 5 obligated to, defer any required principal payment, but shall
12 6 not charge additional interest or fees on the principal amount
12 7 deferred.

12 8 Sec. 13. NEW SECTION. 536B.13 DEFAULT == REPOSSESSION
12 9 AND SALE == RIGHT TO REDEEM.

12 10 1. The motor vehicle equity line of credit lender may
12 11 declare a default pursuant to the requirements of section
12 12 537.5109.

12 13 2. Prior to serving a notice to cure default, the motor
12 14 vehicle equity line of credit lender shall attempt to contact
12 15 the borrower by telephone or certified mail and warn the
12 16 borrower of the default by the borrower.

12 17 3. Prior to taking possession of the pledged motor
12 18 vehicle, the motor vehicle equity line of credit lender shall
12 19 serve a notice to cure default to the borrower pursuant to the
12 20 requirements of sections 537.5110 and 537.5111.

12 21 4. If the borrower does not cure the default within the
12 22 time provided in the notice to cure, the motor vehicle equity
12 23 line of credit lender may repossess the pledged motor vehicle
12 24 pursuant to the motor vehicle equity line of credit agreement
12 25 and in compliance with chapter 554, article 9, part 6.
12 26 However, prior to repossessing the pledged motor vehicle, the
12 27 lender shall afford the borrower an opportunity to make the
12 28 pledged motor vehicle available to the lender at a place,
12 29 date, and time reasonably convenient to the lender and the
12 30 borrower. In taking possession, the motor vehicle equity line
12 31 of credit lender, or the lender's agent, may proceed without
12 32 judicial process if repossession can be accomplished without
12 33 breach of the peace, or the lender may proceed by action to
12 34 obtain judicial process. After the lender takes possession of
12 35 the pledged motor vehicle, the lender shall immediately return
13 1 without charge any personal belongings left within the pledged
13 2 motor vehicle to the borrower.

13 3 5. There shall be no further interest charged to the
13 4 borrower after repossession of the pledged motor vehicle.

13 5 6. After repossession, the motor vehicle equity line of
13 6 credit lender shall mail a notice of right to redeem to the
13 7 borrower, notifying the borrower that the borrower must redeem
13 8 the certificate of title to the pledged motor vehicle within
13 9 ten days by paying all outstanding principal, interest, and
13 10 fees authorized by this chapter owed by the borrower to the
13 11 motor vehicle equity line of credit lender, plus all
13 12 repossession charges. If the borrower exercises the right of
13 13 redemption, the borrower shall be given possession of the
13 14 pledged motor vehicle and the certificate of title without
13 15 further charge. If the borrower fails to redeem the motor
13 16 vehicle, the motor vehicle equity line of credit lender shall
13 17 proceed to sell the pledged motor vehicle.

13 18 7. The motor vehicle equity line of credit lender shall
13 19 sell the pledged motor vehicle in a commercially reasonable
13 20 manner and in compliance with chapter 554, article 9, part 6.
13 21 The proceeds of the sale shall be applied to the principal,
13 22 interest, and all fees authorized by this chapter owed by the
13 23 borrower to the motor vehicle equity line of credit lender,
13 24 including the actual repossession costs and cost of the sale.
13 25 Any surplus from the sale of the pledged motor vehicle shall
13 26 be remitted to the borrower after such sale and shall not be
13 27 retained by the motor vehicle equity line of credit lender.

13 28 8. Upon voluntary surrender of the pledged motor vehicle,
13 29 the motor vehicle equity line of credit lender shall have no
13 30 obligation to send a notice to cure default or notice of right
13 31 to redeem to the borrower.

13 32 Sec. 14. NEW SECTION. 536B.14 PROHIBITED ACTIONS.

13 33 A motor vehicle equity line of credit lender shall not do
13 34 any of the following:

13 35 1. Enter into a motor vehicle equity line of credit
14 1 agreement with a person less than eighteen years of age or a
14 2 person who appears to be intoxicated.

14 3 2. Make any agreement giving the motor vehicle equity line
14 4 of credit lender any recourse against the borrower other than

14 5 the motor vehicle equity line of credit lender's right to take
14 6 possession of the pledged motor vehicle and certificate of
14 7 title upon the borrower's default or failure to redeem, and to
14 8 sell or otherwise dispose of the pledged motor vehicle in
14 9 accordance with the provisions of this chapter, except where
14 10 the borrower prevented repossession of the vehicle, damaged
14 11 the vehicle, or committed fraud.

14 12 3. Enter into a motor vehicle equity line of credit
14 13 agreement in which the amount of money loaned, when combined
14 14 with the outstanding balance of other outstanding motor
14 15 vehicle equity line of credit agreements the borrower has with
14 16 the same lender secured by any single certificate of title,
14 17 exceeds three thousand dollars.

14 18 4. Accept any waiver, in writing or otherwise, of any
14 19 right or protection accorded a borrower under this chapter.

14 20 5. Fail to exercise reasonable care to protect from loss
14 21 or damage the certificate of title in the physical possession
14 22 of the motor vehicle equity line of credit lender.

14 23 6. Purchase a pledged motor vehicle that was repossessed
14 24 in the operation of the lender's business.

14 25 7. Maintain more than one motor vehicle equity line of
14 26 credit office for each motor vehicle equity line of credit
14 27 lender under each license, provided, however, any such motor
14 28 vehicle equity line of credit lender may move a motor vehicle
14 29 equity line of credit office as provided in this chapter.

14 30 8. Enter into a motor vehicle equity line of credit
14 31 agreement unless the borrower presents a clear title to the
14 32 pledged motor vehicle at the time that the loan is made, and
14 33 such title is retained in the physical possession of the motor
14 34 vehicle equity line of credit lender. If the motor vehicle
14 35 equity line of credit lender files a lien against such motor
15 1 vehicle without possession of a clear title to the motor
15 2 vehicle, the resulting lien shall be void.

15 3 9. Capitalize or add any accrued interest to the principal
15 4 not otherwise allowed under this chapter.

15 5 10. Sell or otherwise charge for any type of insurance in
15 6 connection with a motor vehicle equity line of credit
15 7 agreement. Nothing in this subsection shall prohibit a motor
15 8 vehicle equity line of credit lender from offering a borrower
15 9 the option to purchase memberships in automobile clubs or
15 10 associations, provided that the motor vehicle equity line of
15 11 credit lender informs the borrower in writing that the
15 12 membership is optional, that the membership can be purchased
15 13 elsewhere, and that the purchase of the membership has no
15 14 bearing on whether the borrower receives a loan.

15 15 11. Charge a prepayment penalty.

15 16 12. Require a borrower to provide any additional guaranty
15 17 as a condition to entering into a motor vehicle equity line of
15 18 credit agreement.

15 19 13. Use any collection tactics in violation of the federal
15 20 Fair Debt Collection Practices Act, 15 U.S.C. } 1692, et seq.,
15 21 or any other applicable law.

15 22 14. Use any device or agreement, including an agreement
15 23 with an affiliated motor vehicle equity line of credit lender,
15 24 with the intent to obtain greater charges than otherwise would
15 25 be authorized by this chapter.

15 26 15. Intentionally violate the provisions of this chapter
15 27 or any rule adopted by the superintendent.

15 28 16. Violate any applicable provision of chapter 537 or
15 29 chapter 554, article 9, part 6.

15 30 Sec. 15. NEW SECTION. 536B.15 CRIMINAL PENALTY.

15 31 A person who intentionally violates any provision of this
15 32 chapter is guilty of a serious misdemeanor.

15 33 Sec. 16. NEW SECTION. 536B.16 VIOLATIONS == LICENSE
15 34 SANCTIONS == CIVIL PENALTY.

15 35 1. The superintendent may, after notice and opportunity
16 1 for a hearing, suspend or revoke any license issued pursuant
16 2 to this chapter if the superintendent finds that the motor
16 3 vehicle equity line of credit lender has knowingly, or through
16 4 lack of due care, done any of the following:

16 5 a. Engaged in conduct of a manner which would warrant the
16 6 denial of an application for a license.

16 7 b. Refused to permit the superintendent to make any
16 8 examination authorized by this chapter.

16 9 c. Failed to pay the annual license fee imposed by this
16 10 chapter, or an examination fee imposed by the superintendent
16 11 under the authority of this chapter.

16 12 d. Committed any fraudulent act.

16 13 e. Made a false statement in an application for a license
16 14 under this chapter or failed to give a true reply to a
16 15 question in the application.

16 16 f. Demonstrated incompetence or untrustworthiness to act
16 17 as a motor vehicle equity line of credit lender in the opinion
16 18 of the superintendent.

16 19 g. Violated any provision of this chapter or any rule
16 20 adopted hereunder or violated any other law in the course of
16 21 such motor vehicle equity line of credit lender's dealings as
16 22 a motor vehicle equity line of credit lender.

16 23 2. If, after notice and opportunity for a hearing, the
16 24 superintendent finds that a person has violated any provision
16 25 of this chapter or any rule adopted hereunder, the
16 26 superintendent may take any or all of the following actions:

16 27 a. Order the person to cease and desist violating the
16 28 provision of this chapter or rule.

16 29 b. Require the refund of any fees collected by such person
16 30 in violation of this chapter.

16 31 c. Order the person to pay the superintendent a civil
16 32 penalty of not more than one thousand dollars for each
16 33 transaction in violation of this chapter.

16 34 3. A motor vehicle equity line of credit lender shall have
16 35 ten business days to request a hearing upon receiving a notice
17 1 of intent to suspend or revoke a license or issue a civil
17 2 penalty from the superintendent. If requested, a hearing
17 3 shall be held on written notice given at least twenty days
17 4 prior to the date of the hearing and shall be conducted in
17 5 accordance with chapter 17A.

17 6 4. The superintendent may enter into consent orders at any
17 7 time with any person to resolve any matter arising under this
17 8 chapter. A consent order shall be signed by all parties to
17 9 the consent order, or a duly authorized representative, and
17 10 shall indicate agreement to the terms contained therein. A
17 11 consent order need not constitute an admission by any person
17 12 that any provision of this chapter, or any rule or order
17 13 adopted or issued hereunder, has been violated, nor need it
17 14 constitute a finding by the superintendent that such person
17 15 has violated any provision of this chapter or any rule or
17 16 order adopted or issued under this chapter.

17 17 5. Notwithstanding the issuance of a consent order, the
17 18 superintendent may seek civil or criminal penalties concerning
17 19 matters encompassed by the consent order.

17 20 6. In cases involving extraordinary circumstances
17 21 requiring immediate action, the superintendent may take any
17 22 enforcement action authorized by this chapter without
17 23 providing the opportunity for a prior hearing, but shall
17 24 promptly afford a subsequent hearing upon an application to
17 25 rescind the action taken which is filed with the
17 26 superintendent within twenty days after receipt of the notice
17 27 of the superintendent's emergency action.

17 28 7. Any person aggrieved by the conduct of a motor vehicle
17 29 equity line of credit lender under this chapter in connection
17 30 with the motor vehicle equity line of credit lender's
17 31 regulated activities may file a written complaint with the
17 32 superintendent, who may investigate the complaint, and may
17 33 pursue any other remedy available to the person allowed by
17 34 law.

17 35 8. In the course of the investigation of a complaint, the
18 1 superintendent may do any of the following:

18 2 a. Subpoena witnesses.

18 3 b. Administer oaths.

18 4 c. Examine any individual under oath.

18 5 d. Subpoena the production of records, books, papers,
18 6 contracts, or other documents relevant to such investigation.

18 7 9. If any person fails to comply with a subpoena of the
18 8 superintendent issued pursuant to subsection 8 or to testify
18 9 concerning any matter about which the person may be questioned
18 10 under this chapter, the superintendent may petition any court
18 11 of competent jurisdiction for enforcement.

18 12 10. The license of any motor vehicle equity line of credit
18 13 lender under this chapter who fails to comply with a subpoena
18 14 of the superintendent may be suspended pending compliance with
18 15 the subpoena.

18 16 11. The superintendent may investigate and enforce any and
18 17 all complaints filed by any person which are not criminal in
18 18 nature, which complaint relates to the business of motor
18 19 vehicle equity line of credit lending.

18 20 12. The superintendent, after notice and opportunity for
18 21 hearing, may censure, suspend for a period not to exceed
18 22 twelve months, or bar a person from any position of
18 23 employment, management, or control of any motor vehicle equity
18 24 line of credit lender, if the superintendent finds any of the
18 25 following:

18 26 a. That censure, suspension, or bar is in the public

18 27 interest and that the person has intentionally committed or
18 28 caused a violation of this chapter or any rule or order of the
18 29 superintendent.

18 30 b. Any of the following has occurred:

18 31 (1) The person has been convicted of, pled guilty to, pled
18 32 nolo contendere to, or received a deferred judgment for any
18 33 crime in this or any other state if the crime involved any
18 34 offense reasonably related to the qualifications, functions,
18 35 or duties of a person engaged in the business in accordance
19 1 with this chapter.

19 2 (2) The person has been held liable in any civil action by
19 3 final judgment, or any order by any public agency, if the
19 4 judgment or order involved any offense reasonably related to
19 5 the qualifications, functions, or duties of a person engaged
19 6 in the business in accordance with the provisions of this
19 7 chapter.

19 8 13. Persons suspended or barred under subsection 12 are
19 9 prohibited from participating in any business activity of a
19 10 motor vehicle equity line of credit lender and from engaging
19 11 in any business activity on the premises where a motor vehicle
19 12 equity line of credit lender is conducting its business in
19 13 this state. This subsection shall not be construed to
19 14 prohibit a suspended or barred person from having personal
19 15 transactions processed by a motor vehicle equity line of
19 16 credit lender.

19 17 Sec. 17. NEW SECTION. 536B.17 RULEMAKING == INSPECTION
19 18 OF BOOKS AND RECORDS.

19 19 1. The superintendent may adopt reasonable rules in
19 20 accordance with chapter 17A for the administration and
19 21 enforcement of this chapter. A copy of any rule adopted by
19 22 the superintendent shall be mailed to each licensee under this
19 23 chapter at least thirty days prior to the effective date of
19 24 the rule.

19 25 2. To assure compliance with the provisions of this
19 26 chapter, the superintendent may examine the relevant business
19 27 books and records of any motor vehicle equity line of credit
19 28 lender. The superintendent may charge and collect reasonable
19 29 and actual expenses for any compliance examination conducted
19 30 under this chapter.

19 31 3. The superintendent is authorized to examine persons
19 32 licensed under this chapter and persons reasonably suspected
19 33 by the superintendent of conducting business which requires a
19 34 license under this chapter, including all relevant books,
19 35 records, and papers employed by such persons in the
20 1 transaction of the person's business, and to summon and
20 2 examine witnesses under oath concerning matters relating to
20 3 the business of such persons, or such other matters as may be
20 4 relevant to the discovery of violations of this chapter,
20 5 including the conduct of a business without a license as
20 6 required under this chapter.

20 7 4. All books and records required to be preserved by this
20 8 chapter or any rules of the superintendent or required by any
20 9 federal statute, regulation, or regulatory guideline, as
20 10 applicable to each motor vehicle equity line of credit lender,
20 11 shall be preserved and made available to the superintendent as
20 12 provided in this chapter, for a period of twenty-four months
20 13 from the date the motor vehicle equity line of credit
20 14 agreement was executed or the date the last payment was
20 15 received, whichever is later. The motor vehicle equity line
20 16 of credit lender may cause any or all records at any time in
20 17 its custody to be reproduced and or preserved by the lender or
20 18 by any other person who agrees in writing to submit its
20 19 operations to the examination of the superintendent to the
20 20 extent that such operations directly affect such
20 21 recordkeeping. Any reproduced or preserved record kept by
20 22 microphotographic process, or electronic or mechanical data
20 23 storage technique, shall have the same force and effect as the
20 24 original record and be admitted into evidence equally with the
20 25 original. All records of a motor vehicle equity line of
20 26 credit lending business shall be maintained separately by the
20 27 motor vehicle equity line of credit lender from any other
20 28 business in which the motor vehicle equity line of credit
20 29 lender may engage.

20 30 Sec. 18. NEW SECTION. 536B.18 PREEMPTION OVER LOCAL
20 31 ENACTMENTS == CONFLICTING PROVISIONS.

20 32 1. An incorporated municipality, city, or county in this
20 33 state shall not enact an ordinance or resolution or adopt any
20 34 rules relating to this chapter. The provisions of any
20 35 ordinance, resolution, or rules of any municipality, city, or
21 1 county relative to motor vehicle equity line of credit lending
21 2 are superseded by the provisions of this chapter.

21 3 2. Notwithstanding any other provision of the Code to the
21 4 contrary, this chapter shall apply to all motor vehicle equity
21 5 line of credit agreements made in this state and shall govern
21 6 in the event of any conflict with any other provision of law.
21 7 Sec. 19. NEW SECTION. 536B.19 APPLICABILITY.
21 8 The following entities, if incorporated under the laws of
21 9 this or any other state or federal law, may engage in the
21 10 business of motor vehicle equity line of credit lending and
21 11 shall not be required to be licensed or regulated under this
21 12 chapter:
21 13 1. A bank.
21 14 2. A savings and loan association.
21 15 3. A credit union.
21 16 4. An affiliate of a bank, savings and loan association,
21 17 or credit union.

21 18 EXPLANATION

21 19 This bill provides for the licensing and regulation of
21 20 motor vehicle equity line of credit lenders and agreements to
21 21 be administered by the superintendent of banking and the
21 22 superintendent of credit unions of the department of commerce
21 23 pursuant to new Code chapter 536B. A "motor vehicle equity
21 24 line of credit agreement" is defined by the bill as an
21 25 agreement under which a lender extends an open-end credit plan
21 26 or loan to a consumer secured by an interest in a motor
21 27 vehicle and imposes interest on the outstanding unpaid
21 28 balance. The bill provides for other definitions, including
21 29 "borrower", "control", "controlling person", "lender", "motor
21 30 vehicle", "motor vehicle equity line of credit lender", "motor
21 31 vehicle equity line of credit office", and "superintendent".

21 32 The bill requires any person engaging in the business of
21 33 motor vehicle equity line of credit lending to obtain a
21 34 license from the superintendent of banking or the
21 35 superintendent of credit unions. The bill provides for
22 1 application requirements and proof of the applicant's net
22 2 worth and financial responsibility. Each license applicant
22 3 must include a filing fee in an amount up to \$1,000, an
22 4 accounting balance sheet for the previous fiscal year, and a
22 5 bond or letter of credit in the amount of \$25,000. The bill
22 6 requires the superintendent to investigate all applicants and
22 7 determine whether the applicant is qualified to receive a
22 8 license. The bill requires a separate license for each motor
22 9 vehicle equity line of credit office in this state, which must
22 10 be renewed annually.

22 11 The bill requires motor vehicle equity line of credit
22 12 lenders to provide notice to the superintendent prior to a
22 13 change in the principal place of business and a change in
22 14 control of the lender. The superintendent may deny a license
22 15 to the new controlling person of the lender if the person
22 16 fails to meet the requirements of new Code chapter 536B.

22 17 Motor vehicle equity line of credit lenders are required
22 18 under the bill to follow certain reporting requirements and
22 19 are required to keep records concerning each motor vehicle
22 20 equity line of credit agreement executed by the lender. Each
22 21 motor vehicle equity line of credit agreement is required to
22 22 contain certain information concerning the motor vehicle
22 23 pledged as security under the agreement, the borrower, the
22 24 lender, and how to contact the superintendent. The agreement
22 25 must also contain certain notices and be signed by the
22 26 borrower and the lender.

22 27 The bill prohibits motor vehicle equity line of credit
22 28 lenders from charging fees and interest above \$8 on each \$100
22 29 increment of the remaining principal balance of the loan per
22 30 each 30-day lending period. If an amount less than \$100 is
22 31 borrowed, the maximum fees and interest shall be adjusted on a
22 32 pro rata basis.

22 33 The bill provides that a motor vehicle equity line of
22 34 credit lender may charge a borrower for expenses paid to
22 35 record the lender's lien on the certificate of title to the
23 1 motor vehicle pledged as security, and for expenses for
23 2 repossession and the sale of the motor vehicle. The bill
23 3 requires the superintendent to adopt rules to require each
23 4 motor vehicle equity line of credit lender to use a standard
23 5 disclosure form to ensure compliance with federal truth-in=
23 6 lending laws.

23 7 The bill provides for certain rights and responsibilities
23 8 of the borrower such as a right of redemption and a
23 9 requirement to make a principal reduction payment each payment
23 10 period. If a borrower fails to make a payment due or
23 11 otherwise breaches the motor vehicle equity line of credit
23 12 agreement, the lender may declare the borrower to be in
23 13 default of the agreement and must attempt to contact the

23 14 borrower to warn the borrower of the default. After serving a
23 15 notice to cure to the borrower, the lender may repossess the
23 16 pledged motor vehicle. After repossession, the lender shall
23 17 mail a notice of right to redeem to the borrower. If the
23 18 borrower fails to redeem the motor vehicle, the lender shall
23 19 sell the motor vehicle in a commercially reasonable manner and
23 20 remit any surplus funds to the borrower.

23 21 The bill prohibits motor vehicle equity line of credit
23 22 lenders from entering into agreements with persons less than
23 23 18 years old or persons who appear intoxicated. The bill also
23 24 prohibits lenders from making an agreement for additional
23 25 recourse against a borrower other than repossession and from
23 26 making an agreement for an amount exceeding \$3,000. Lenders
23 27 under new Code chapter 536B are prohibited from accepting a
23 28 waiver of any borrower right and from purchasing a repossessed
23 29 pledged motor vehicle from a borrower. Lenders may only enter
23 30 into a motor vehicle equity line of credit agreement for a
23 31 borrower who has clear title to the pledged motor vehicle and
23 32 are restricted from selling insurance in connection with such
23 33 an agreement. A lender may not charge a prepayment penalty
23 34 and cannot use any collection tactics in violation of federal
23 35 law. Lenders must comply with all applicable requirements of
24 1 the Iowa consumer credit code and the provisions of the U.C.C.
24 2 that pertain to repossession of personal property.

24 3 A person who violates any provision of new Code chapter
24 4 536B is guilty of a serious misdemeanor. A serious
24 5 misdemeanor is punishable by confinement for no more than one
24 6 year and a fine of at least \$315 but not more than \$1,875.

24 7 The superintendent may suspend or revoke a license issued
24 8 under new Code chapter 536B for certain acts and violations of
24 9 new Code chapter 536B, after providing notice and an
24 10 opportunity for a hearing. The superintendent may also issue
24 11 a cease and desist order, require the refund of fees, and
24 12 order a person to pay a civil penalty in an amount up to
24 13 \$1,000 per violation of new Code chapter 536B, after providing
24 14 notice and an opportunity for a hearing. The superintendent
24 15 may take complaints of alleged violations of new Code chapter
24 16 536B and subpoena witnesses and documents. After notice and
24 17 opportunity for a hearing, the superintendent may censure,
24 18 suspend, or bar a person from a position with a motor vehicle
24 19 equity line of credit lender for a violation of new Code
24 20 chapter 536B or a rule adopted pursuant to new Code chapter
24 21 536B. The bill provides that the superintendent may adopt
24 22 rules, a copy of which must be mailed to each licensee. The
24 23 superintendent may examine the books and records of a lender.

24 24 The bill provides that the requirements of new Code chapter
24 25 536B do not apply to a bank, savings and loan association,
24 26 credit union, or an affiliate thereof, that is organized
24 27 pursuant to the laws of this state, any other state, or by
24 28 federal law.

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