

Senate File 360 - Introduced

SENATE FILE _____
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1178)

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

A BILL FOR

1 An Act relating to the regulatory duties of the division of
2 banking of the department of commerce regarding banking, debt
3 management, mortgage banking, industrial loan companies, and
4 professional licensing.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1299SV 82
7 rn/je/5

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1 1 Section 1. Section 103A.10, subsection 3, Code 2007, is
1 2 amended to read as follows:
1 3 3. Provisions of the state building code relating to the
1 4 manufacture and installation of factory-built structures shall
1 5 apply throughout the state. Factory-built structures approved
1 6 by the commissioner shall be deemed to comply with all
1 7 building regulations applicable to its manufacture and
1 8 installation and shall be exempt from any other state or local
1 9 building regulations. A provision of this chapter relating to
1 10 the manufacture and installation of factory-built structures
1 11 shall not alter or supersede any provision of chapter 542B
1 12 concerning the practice of professional engineering or chapter
1 13 544A concerning the practice of architecture.
1 14 Sec. 2. NEW SECTION. 524.215A PRESERVATION OF DIVISION
1 15 OF BANKING RECORDS.
1 16 1. The division of banking may preserve records, papers,
1 17 or documents kept by the division or in the possession or
1 18 custody of the division by any of the following means:
1 19 a. Photographing or microphotographing, or otherwise
1 20 reproducing upon film.
1 21 b. Preserving in any electronic medium or format capable
1 22 of being read or scanned by computer and capable of being
1 23 reproduced by printing or by any other form of reproduction of
1 24 electronically stored data.
1 25 2. Photographs, microphotographs, or photographic films or
1 26 copies thereof, or reproductions of electronically stored
1 27 data, created pursuant to subsection 1 shall be deemed to be
1 28 an original record for all purposes, including introduction in
1 29 evidence in all state and federal courts or administrative
1 30 hearings, and shall be admissible to prove any act,
1 31 transaction, occurrence, or event therein recorded.
1 32 3. Photographs, microphotographs, or photographic films or
1 33 copies thereof, or reproductions of electronically stored
1 34 data, created pursuant to subsection 1 shall be preserved in
1 35 such manner as the division prescribes, and the original
2 1 photographs, microphotographs, photographic films, copies, and
2 2 reproductions may be destroyed or otherwise disposed of as the
2 3 division directs.
2 4 Sec. 3. Section 524.217, subsection 2, Code 2007, is
2 5 amended to read as follows:
2 6 2. The superintendent may furnish to the federal deposit
2 7 insurance corporation, the federal reserve system, ~~the office~~
~~2 8 of the comptroller of the currency, the office of thrift~~
~~2 9 supervision, the United States department of the treasury, the~~
2 10 national credit union administration, the federal home loan
2 11 bank, ~~the financial crimes enforcement network of the federal~~
~~2 12 department of the treasury, the United States internal revenue~~
~~2 13 service,~~ and financial institution regulatory authorities of
2 14 other states, or to any official or supervising examiner of
2 15 such regulatory authorities, a copy of the report of any or
2 16 all examinations made of any state bank and of any affiliate

2 17 of a state bank.

2 18 Sec. 4. Section 524.217, Code 2007, is amended by adding
2 19 the following new subsection:

2 20 NEW SUBSECTION. 6. The superintendent may enter into
2 21 contractual agreements with other state regulators of
2 22 financial institutions to share examiners or to assist in each
2 23 state's respective examinations. The division of banking
2 24 shall be reimbursed for any costs incurred when providing
2 25 services to other states pursuant to this subsection. Any
2 26 division of banking personnel assisting another state with its
2 27 examination shall be covered by the provisions of the other
2 28 state's tort claims act, to the extent permitted by the laws
2 29 of the other state. If the law of the other state does not
2 30 extend coverage to the division of banking personnel working
2 31 on the other state's examination, the provisions of chapter
2 32 669 shall apply.

2 33 Sec. 5. Section 533A.10, Code 2007, is amended by adding
2 34 the following new subsection:

2 35 NEW SUBSECTION. 3. Except as otherwise provided by this
3 1 chapter, all papers, documents, examination reports and other
3 2 writings relating to the supervision of licensees are not
3 3 public records and are not subject to disclosure under chapter
3 4 22. The superintendent may disclose information to
3 5 representatives of other state or federal regulatory
3 6 authorities. The superintendent may release summary complaint
3 7 information as long as the information does not specifically
3 8 identify the complainant. The superintendent may prepare and
3 9 circulate reports reflecting financial information examination
3 10 results for all licensees on an aggregate basis, including
3 11 other information considered pertinent to the purpose of each
3 12 report for general statistical information. The
3 13 superintendent may prepare and circulate reports provided by
3 14 law. The superintendent may release the reports and
3 15 correspondence in the course of an enforcement proceeding or a
3 16 hearing held by the superintendent and may provide this
3 17 information to the attorney general for purposes of enforcing
3 18 this chapter or the consumer fraud Act, section 714.16.

3 19 Sec. 6. Section 535B.14, Code 2007, is amended to read as
3 20 follows:

3 21 535B.14 RULEMAKING AUTHORITY.

3 22 The administrator may adopt, amend, or repeal rules to aid
3 23 in the administration and enforcement of this chapter.

3 24 including rules providing the grounds for denial of an
3 25 individual registration based on information received as a
3 26 result of a background check, character and fitness grounds,
3 27 and any other grounds for which an individual registrant or
3 28 licensee may be disciplined.

3 29 Sec. 7. Section 536A.22, unnumbered paragraph 1, Code
3 30 2007, is amended to read as follows:

3 31 Licensed industrial loan companies ~~may shall not sell~~
3 32 senior debt to the general public in the form of thrift
3 33 certificates, installment thrift certificates, certificates of
3 34 indebtedness, promissory notes, or similar evidences of
3 35 indebtedness ~~if such debt instruments are insured by a federal~~
4 1 ~~deposit insurance agency.~~ Licensees selling debt instruments
4 2 on January 1, 1996, may continue to do so ~~without obtaining~~
4 3 ~~federal deposit insurance~~ until there is a change of control
4 4 of the licensee which occurs on or after January 1, 1996. If
4 5 there is a change of control of a licensee on or after January
4 6 1, 1996, and the licensee has sold senior debt instruments
4 7 that ~~are not insured by a federal deposit insurance agency~~
4 8 remain outstanding at the time of the change of control, such
4 9 outstanding senior debt instruments that do not have a stated
4 10 maturity date shall be redeemed within six months of the date
4 11 of the change of control. Such outstanding senior debt
4 12 instruments with stated maturity dates shall be redeemed on
4 13 their stated maturity dates.

4 14 Sec. 8. Section 546.10, Code 2007, is amended by adding
4 15 the following new subsections:

4 16 NEW SUBSECTION. 6. The licensing boards included in the
4 17 bureau pursuant to subsection 1 may refuse to issue or renew a
4 18 license to practice a profession to any person otherwise
4 19 qualified upon any of the grounds for which a license may be
4 20 revoked or suspended or a licensee may otherwise be
4 21 disciplined, or upon any other grounds set out in the chapter
4 22 governing the respective board.

4 23 NEW SUBSECTION. 7. The licensing boards included in the
4 24 bureau pursuant to subsection 1 may suspend, revoke, or refuse
4 25 to issue or renew a license, or may discipline a licensee
4 26 based upon a suspension, revocation, or other disciplinary
4 27 action taken by a licensing authority in this or another

4 28 state, territory, or country. For purposes of this
4 29 subsection, "disciplinary action" includes the voluntary
4 30 surrender of a license to resolve a pending disciplinary
4 31 investigation or proceeding. A certified copy of the record
4 32 or order of suspension, revocation, voluntary surrender, or
4 33 other disciplinary action is prima facie evidence of such
4 34 fact.

4 35 NEW SUBSECTION. 8. Notwithstanding any other provision of
5 1 law to the contrary, the licensing boards included within the
5 2 bureau pursuant to subsection 1 may by rule establish the
5 3 conditions under which an individual licensed in a different
5 4 jurisdiction may be issued a reciprocal or comity license, if,
5 5 in the board's discretion, the applicant's qualifications for
5 6 licensure are substantially equivalent to those required of
5 7 applicants for initial licensure in this state.

5 8 NEW SUBSECTION. 9. Notwithstanding section 272C.6, the
5 9 licensing boards included within the bureau pursuant to
5 10 subsection 1 may by rule establish the conditions under which
5 11 the board may supply to a licensee who is the subject of a
5 12 disciplinary complaint or investigation, prior to the
5 13 initiation of a disciplinary proceeding, all or such parts of
5 14 a disciplinary complaint, disciplinary or investigatory file,
5 15 report, or other information, as the board in its sole
5 16 discretion believes would aid the investigation or resolution
5 17 of the matter.

5 18 Sec. 9. Sections 536A.32, 536A.33, and 536A.34, Code 2007,
5 19 are repealed.

5 20 EXPLANATION

5 21 This bill relates to the operation and administration of
5 22 the division of banking of the department of commerce.

5 23 The bill specifies that provisions of Code chapter 103A.10
5 24 relating to the manufacture and installation of factory-built
5 25 structures, including the exemption of such structures if
5 26 approved by the state building code commissioner from other
5 27 state and local building regulations, shall not alter or
5 28 supersede any provision of Code chapter 542B or 544A
5 29 concerning the practices of professional engineering or
5 30 architecture, respectively. The professional licensing bureau
5 31 within the division of banking administers these Code
5 32 chapters.

5 33 The bill contains provisions relating to the preservation
5 34 of records of the division of banking. The bill provides that
5 35 the division may cause records, papers, or documents to be
6 1 photographed, microphotographed, or otherwise reproduced upon
6 2 film; or preserved in any electronic medium or format capable
6 3 of being read or scanned by computer and reproduced. The bill
6 4 states that this stored material or data shall be considered
6 5 an original record for all purposes, including introduction in
6 6 evidence in all state and federal courts or administrative
6 7 hearings, and shall be admissible to prove any act,
6 8 transaction, occurrence, or event therein recorded. The bill
6 9 further provides that the material or data shall be preserved
6 10 in a manner as prescribed by the division, and that the
6 11 original records, papers, or documents may be destroyed or
6 12 otherwise disposed of as the division may direct.

6 13 The bill replaces the designation of several individual
6 14 offices of the United States department of the treasury with
6 15 the more general designation of the department with regard to
6 16 the furnishing of state bank or state bank affiliate
6 17 examination reports.

6 18 The bill provides that the superintendent of banking may
6 19 enter into contractual agreements with other state regulators
6 20 of financial institutions to share examiners or to assist in
6 21 examinations, and provides for reimbursement to the division
6 22 for resulting costs, protection of banking division personnel
6 23 assisting another state with its examination under that
6 24 state's tort claims act to the extent permitted by the laws of
6 25 the other state, and applicability of Code section 669 dealing
6 26 with state tort claims to the extent coverage by another state
6 27 is not extended or permitted.

6 28 The bill provides, with respect to the supervision of debt
6 29 management companies, that all papers, documents, examination
6 30 reports and other writings relating to the supervision of
6 31 licensees are not public records subject to disclosure
6 32 pursuant to Code chapter 22 dealing with open records. The
6 33 bill additionally provides, however, that the superintendent
6 34 of banking may disclose information to representatives of
6 35 other state or federal regulatory authorities, and may release
7 1 summary complaint information as long as the information does
7 2 not specifically identify the complainant. The bill states
7 3 that the superintendent may prepare and circulate reports

7 4 reflecting financial information examination results for
7 5 licensees on an aggregate basis, including information
7 6 considered pertinent to the purpose of each report for general
7 7 statistical information, may prepare and circulate reports
7 8 provided by law, may release reports and correspondence in the
7 9 course of an enforcement proceeding or a hearing held by the
7 10 superintendent, and may provide the information to the
7 11 attorney general for enforcement purposes.

7 12 The bill adds to existing rulemaking authority regarding
7 13 the licensing and regulation of mortgage bankers and brokers
7 14 in Code chapter 535B the authority to adopt rules providing
7 15 grounds for denial of an individual registration based on
7 16 information received as a result of a background check,
7 17 character and fitness grounds, or other grounds for which an
7 18 individual registrant or licensee may be disciplined.

7 19 The bill changes the authority of a licensed industrial
7 20 loan company to sell thrift certificates, installment thrift
7 21 certificates, certificates of indebtedness, promissory notes,
7 22 or similar evidences of indebtedness. Currently, such debt
7 23 instruments may be sold if insured by a federal deposit
7 24 insurance agency. The bill prohibits such sales, deletes
7 25 references to federal deposit insurance agencies, and provides
7 26 that if a change in control of a licensee occurs on or after
7 27 January 1, 1996, debt instruments without a stated maturity
7 28 date which remain outstanding at the time of the change of
7 29 control shall be redeemed within six months of the change of
7 30 control date.

7 31 The bill additionally provides, with reference to the
7 32 authority of the professional licensing and regulation bureau
7 33 of the division of banking, that the licensing boards subject
7 34 to that authority may refuse to issue or renew a license to
7 35 practice a profession to any person otherwise qualified upon
8 1 any of the grounds for which a license may be revoked or
8 2 suspended, or a licensee otherwise disciplined, or upon any
8 3 other grounds set out in the Code chapter applicable to the
8 4 respective board. The bill specifies that the boards may
8 5 suspend, revoke, or refuse to issue or renew a license, or
8 6 discipline a licensee based upon a suspension, revocation, or
8 7 other disciplinary action taken by a licensing authority in
8 8 Iowa or another state, territory, or country, and that a
8 9 "disciplinary action" includes the voluntary surrender of a
8 10 license to resolve a pending disciplinary investigation or
8 11 proceeding. Further, the bill provides that the licensing
8 12 boards may by rule establish the conditions under which an
8 13 individual licensed in a different jurisdiction may be issued
8 14 a reciprocal or comity license, and under which information
8 15 may be supplied to a licensee who is the subject of a
8 16 disciplinary complaint or investigation which the board
8 17 believes would aid the investigation or assist in resolution
8 18 of the matter.

8 19 The bill repeals Code sections 536A.32 through 536A.34,
8 20 which currently, respectively, prohibit acquisitions of an
8 21 industrial loan company by out-of-state banks, prohibit
8 22 operation of branches and acquisitions of industrial loan
8 23 companies by out-of-state industrial loan companies, and
8 24 relate to the authorized activities of out-of-state industrial
8 25 loan companies, industrial banks, or similar institutions.

8 26 LSB 1299SV 82

8 27 rn:rj/je/5.1