

Senate Study Bill 1178

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

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 1299DP 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 architecture or chapter 544A
1 13 concerning the practice of professional engineering.
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 524.310, subsection 1, Code 2007, is
2 34 amended to read as follows:

2 35 1. The name of a state bank originally incorporated or
3 1 organized after the effective date of this chapter shall
3 2 include the word "bank" and may include the word "state" or
3 3 "trust" in its name. A state bank using the word "trust" in
3 4 its name must be authorized under this chapter to act in a
3 5 fiduciary capacity. A national bank or federal savings
3 6 association shall not use the word "state" in its legally
3 7 chartered name, trademark, or logo.

3 8 Sec. 6. Section 533A.10, Code 2007, is amended by adding
3 9 the following new subsection:

3 10 NEW SUBSECTION. 3. Except as otherwise provided by this
3 11 chapter, all papers, documents, examination reports and other
3 12 writings relating to the supervision of licensees are not
3 13 public records and are not subject to disclosure under chapter
3 14 22. The superintendent may disclose information to
3 15 representatives of other state or federal regulatory
3 16 authorities. The superintendent may release summary complaint
3 17 information as long as the information does not specifically
3 18 identify the complainant. The superintendent may prepare and
3 19 circulate reports reflecting financial information examination
3 20 results for all licensees on an aggregate basis, including
3 21 other information considered pertinent to the purpose of each
3 22 report for general statistical information. The
3 23 superintendent may prepare and circulate reports provided by
3 24 law. The superintendent may release the reports and
3 25 correspondence in the course of an enforcement proceeding or a
3 26 hearing held by the superintendent and may provide this
3 27 information to the attorney general for purposes of enforcing
3 28 this chapter or the consumer fraud Act, section 714.16.

3 29 Sec. 7. Section 535B.14, Code 2007, is amended to read as
3 30 follows:

3 31 535B.14 RULEMAKING AUTHORITY.

3 32 The administrator may adopt, amend, or repeal rules to aid
3 33 in the administration and enforcement of this chapter,

3 34 including rules providing the grounds for denial of an
3 35 individual registration based on information received as a
4 1 result of a background check, character and fitness grounds,
4 2 and any other grounds for which an individual registrant or
4 3 licensee may be disciplined.

4 4 Sec. 8. Section 536A.22, unnumbered paragraph 1, Code
4 5 2007, is amended to read as follows:

4 6 Licensed industrial loan companies ~~may~~ shall not sell
4 7 senior debt to the general public in the form of thrift
4 8 certificates, installment thrift certificates, certificates of
4 9 indebtedness, promissory notes, or similar evidences of
4 10 indebtedness ~~if such debt instruments are insured by a federal~~
~~4 11 deposit insurance agency.~~ Licensees selling debt instruments
4 12 on January 1, 1996, may continue to do so ~~without obtaining~~
~~4 13 federal deposit insurance~~ until there is a change of control
4 14 of the licensee which occurs on or after January 1, 1996. If
4 15 there is a change of control of a licensee on or after January
4 16 1, 1996, and the licensee has sold senior debt instruments
4 17 that ~~are not insured by a federal deposit insurance agency~~
4 18 remain outstanding at the time of the change of control, such
4 19 outstanding senior debt instruments that do not have a stated
4 20 maturity date shall be redeemed within six months of the date
4 21 of the change of control. Such outstanding senior debt
4 22 instruments with stated maturity dates shall be redeemed on
4 23 their stated maturity dates.

4 24 Sec. 9. Section 546.10, Code 2007, is amended by adding
4 25 the following new subsections:

4 26 NEW SUBSECTION. 6. The licensing boards included in the
4 27 bureau pursuant to subsection 1 may refuse to issue or renew a

4 28 license to practice a profession to any person otherwise
4 29 qualified upon any of the grounds for which a license may be
4 30 revoked or suspended or a licensee may otherwise be
4 31 disciplined, or upon any other grounds set out in the chapter
4 32 governing the respective board.

4 33 NEW SUBSECTION. 7. The licensing boards included in the
4 34 bureau pursuant to subsection 1 may suspend, revoke, or refuse
4 35 to issue or renew a license, or may discipline a licensee
5 1 based upon a suspension, revocation, or other disciplinary
5 2 action taken by a licensing authority in this or another
5 3 state, territory, or country. For purposes of this
5 4 subsection, "disciplinary action" includes the voluntary
5 5 surrender of a license to resolve a pending disciplinary
5 6 investigation or proceeding. A certified copy of the record
5 7 or order of suspension, revocation, voluntary surrender, or
5 8 other disciplinary action is prima facie evidence of such
5 9 fact.

5 10 NEW SUBSECTION. 8. Notwithstanding any other provision of
5 11 law to the contrary, the licensing boards included within the
5 12 bureau pursuant to subsection 1 may by rule establish the
5 13 conditions under which an individual licensed in a different
5 14 jurisdiction may be issued a reciprocal or comity license, if,
5 15 in the board's discretion, the applicant's qualifications for
5 16 licensure are substantially equivalent to those required of
5 17 applicants for initial licensure in this state.

5 18 NEW SUBSECTION. 9. Notwithstanding section 272C.6, the
5 19 licensing boards included within the bureau pursuant to
5 20 subsection 1 may by rule establish the conditions under which
5 21 the board may supply to a licensee who is the subject of a
5 22 disciplinary complaint or investigation, prior to the
5 23 initiation of a disciplinary proceeding, all or such parts of
5 24 a disciplinary complaint, disciplinary or investigatory file,
5 25 report, or other information, as the board in its sole
5 26 discretion believes would aid the investigation or resolution
5 27 of the matter.

5 28 Sec. 10. Sections 536A.32, 536A.33, and 536A.34, Code
5 29 2007, are repealed.

5 30 EXPLANATION

5 31 This bill relates to the operation and administration of
5 32 the division of banking of the department of commerce.

5 33 The bill specifies that provisions of Code chapter 103A.10
5 34 relating to the manufacture and installation of factory-built
5 35 structures, including the exemption of such structures if
6 1 approved by the state building code commissioner from other
6 2 state and local building regulations, shall not alter or
6 3 supersede any provision of Code chapter 542B or 544A
6 4 concerning the practices of architecture or professional
6 5 engineering, respectively. The professional licensing bureau
6 6 within the division of banking administers these Code
6 7 chapters.

6 8 The bill contains provisions relating to the preservation
6 9 of records of the division of banking. The bill provides that
6 10 the division may cause records, papers, or documents to be
6 11 photographed, microphotographed, or otherwise reproduced upon
6 12 film; or preserved in any electronic medium or format capable
6 13 of being read or scanned by computer and reproduced. The bill
6 14 states that this stored material or data shall be considered
6 15 an original record for all purposes, including introduction in
6 16 evidence in all state and federal courts or administrative
6 17 hearings, and shall be admissible to prove any act,
6 18 transaction, occurrence, or event therein recorded. The bill
6 19 further provides that the material or data shall be preserved
6 20 in a manner as prescribed by the division, and that the
6 21 original records, papers, or documents may be destroyed or
6 22 otherwise disposed of as the division may direct.

6 23 The bill replaces the designation of several individual
6 24 offices of the United States department of the treasury with
6 25 the more general designation of the department with regard to
6 26 the furnishing of state bank or state bank affiliate
6 27 examination reports.

6 28 The bill provides that the superintendent of banking may
6 29 enter into contractual agreements with other state regulators
6 30 of financial institutions to share examiners or to assist in
6 31 examinations, and provides for reimbursement to the division
6 32 for resulting costs, protection of banking division personnel
6 33 assisting another state with its examination under that
6 34 state's tort claims act to the extent permitted by the laws of
6 35 the other state, and applicability of Code section 669 dealing
7 1 with state tort claims to the extent coverage by another state
7 2 is not extended or permitted. The bill also extends a
7 3 prohibition against a national bank or federal savings

7 4 association from using the word "state" in its legally
7 5 chartered name to include prohibiting the word's use in
7 6 trademarks or logos.

7 7 The bill provides, with respect to the supervision of debt
7 8 management companies, that all papers, documents, examination
7 9 reports and other writings relating to the supervision of
7 10 licensees are not public records subject to disclosure
7 11 pursuant to Code chapter 22 dealing with open records. The
7 12 bill additionally provides, however, that the superintendent
7 13 of banking may disclose information to representatives of
7 14 other state or federal regulatory authorities, and may release
7 15 summary complaint information as long as the information does
7 16 not specifically identify the complainant. The bill states
7 17 that the superintendent may prepare and circulate reports
7 18 reflecting financial information examination results for
7 19 licensees on an aggregate basis, including information
7 20 considered pertinent to the purpose of each report for general
7 21 statistical information, may prepare and circulate reports
7 22 provided by law, may release reports and correspondence in the
7 23 course of an enforcement proceeding or a hearing held by the
7 24 superintendent, and may provide the information to the
7 25 attorney general for enforcement purposes.

7 26 The bill adds to existing rulemaking authority regarding
7 27 the licensing and regulation of mortgage bankers and brokers
7 28 in Code chapter 535B the authority to adopt rules providing
7 29 grounds for denial of an individual registration based on
7 30 information received as a result of a background check,
7 31 character and fitness grounds, or other grounds for which an
7 32 individual registrant or licensee may be disciplined.

7 33 The bill changes the authority of a licensed industrial
7 34 loan company to sell thrift certificates, installment thrift
7 35 certificates, certificates of indebtedness, promissory notes,
8 1 or similar evidences of indebtedness. Currently, such debt
8 2 instruments may be sold if insured by a federal deposit
8 3 insurance agency. The bill prohibits such sales, deletes
8 4 references to federal deposit insurance agencies, and provides
8 5 that if a change in control of a licensee occurs on or after
8 6 January 1, 1996, debt instruments without a stated maturity
8 7 date which remain outstanding at the time of the change of
8 8 control shall be redeemed within six months of the change of
8 9 control date.

8 10 The bill additionally provides, with reference to the
8 11 authority of the professional licensing and regulation bureau
8 12 of the division of banking, that the licensing boards subject
8 13 to that authority may refuse to issue or renew a license to
8 14 practice a profession to any person otherwise qualified upon
8 15 any of the grounds for which a license may be revoked or
8 16 suspended, or a licensee otherwise disciplined, or upon any
8 17 other grounds set out in the Code chapter applicable to the
8 18 respective board. The bill specifies that the boards may
8 19 suspend, revoke, or refuse to issue or renew a license, or
8 20 discipline a licensee based upon a suspension, revocation, or
8 21 other disciplinary action taken by a licensing authority in
8 22 Iowa or another state, territory, or country, and that a
8 23 "disciplinary action" includes the voluntary surrender of a
8 24 license to resolve a pending disciplinary investigation or
8 25 proceeding. Further, the bill provides that the licensing
8 26 boards may by rule establish the conditions under which an
8 27 individual licensed in a different jurisdiction may be issued
8 28 a reciprocal or comity license, and under which information
8 29 may be supplied to a licensee who is the subject of a
8 30 disciplinary complaint or investigation which the board
8 31 believes would aid the investigation or assist in resolution
8 32 of the matter.

8 33 The bill repeals Code sections 536A.32 through 536A.34,
8 34 which currently, respectively, prohibit acquisitions of an
8 35 industrial loan company by out-of-state banks, prohibit
9 1 operation of branches and acquisitions of industrial loan
9 2 companies by out-of-state industrial loan companies, and
9 3 relate to the authorized activities of out-of-state industrial
9 4 loan companies, industrial banks, or similar institutions.

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