

**Senate File 417 - Introduced**

SENATE FILE 417  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1088)

**A BILL FOR**

1 An Act relating to matters under the purview of the division  
2 of banking of the department of commerce, and including  
3 effective date provisions.

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

1 Section 1. Section 524.211, subsection 3, Code 2011, is  
2 amended to read as follows:

3 3. The superintendent, general counsel, examiners, and  
4 other employees of the banking division, who have credit  
5 relations with a person or entity licensed or registered  
6 pursuant to chapter 535B, 535D, or 536C, are prohibited from  
7 participating in decisions, oversight, and official review  
8 of matters concerning the regulation of the licensee or  
9 registrant.

10 Sec. 2. Section 524.212, subsection 2, Code 2011, is amended  
11 to read as follows:

12 2. The superintendent may receive documents, materials,  
13 or other information, including otherwise confidential and  
14 privileged documents, materials, or other information, from  
15 other local, state, federal, and international regulatory  
16 agencies, the conference of state bank supervisors and its  
17 affiliates or subsidiaries, the American association of  
18 mortgage regulators and its affiliates or subsidiaries, and  
19 the national association of consumer credit administrators  
20 and its affiliates or subsidiaries, and shall maintain as  
21 confidential and privileged any such document, material, or  
22 other information received with notice or the understanding  
23 that it is confidential or privileged under the laws of the  
24 jurisdiction that is the source of the document, material, or  
25 other information. With respect to documents, materials, or  
26 other information that is shared or stored electronically,  
27 the superintendent is authorized to take any necessary steps  
28 to ensure the division's information technology systems  
29 comply with the information technology security requirements  
30 established by any of the regulatory agencies or associations  
31 of state regulatory agencies described in this section.

32 Sec. 3. Section 524.904, subsection 5, Code 2011, is amended  
33 to read as follows:

34 5. a. A state bank may grant loans and extensions of credit  
35 to a ~~corporate~~ borrowing group in an amount not to exceed

1 twenty-five percent of the state bank's aggregate capital if  
2 all loans and extensions of credit to any one borrower within  
3 a ~~corporate~~ borrowing group conform to subsection 2 or 3, and  
4 the financial strength, assets, guarantee, or endorsement of  
5 any one ~~corporate~~ borrowing group member is not relied upon  
6 as a basis for loans and extensions of credit to any other  
7 ~~corporate~~ borrowing group member. A state bank may grant loans  
8 and extensions of credit to a ~~corporate~~ borrowing group in an  
9 amount not to exceed thirty-five percent of aggregate capital  
10 if all loans and extensions of credit to any one borrower  
11 within a ~~corporate~~ borrowing group conform to subsection 2,  
12 3, or 4, and the financial strength, assets, guarantee, or  
13 endorsement of any one ~~corporate~~ borrowing group member is not  
14 relied upon as a basis for loans and extensions of credit to  
15 any other ~~corporate~~ borrowing group member. ~~A corporate group~~  
16 ~~includes a person and all corporations in which the person~~  
17 ~~owns or controls fifty percent or more of the shares entitled~~  
18 ~~to vote.~~ While not to be construed as an endorsement of the  
19 quality of any loan or extension of credit, the superintendent  
20 may authorize a state bank to grant loans and extensions of  
21 credit to a borrowing group in an amount not to exceed fifty  
22 percent of aggregate capital if all loans and extensions of  
23 credit to any one borrower within a borrowing group conform  
24 to subsection 2 or 3, and the financial strength, assets,  
25 guarantee, or endorsement of any one borrowing group member is  
26 not relied upon as a basis for loans and extensions of credit  
27 to any other borrowing group member.

28 b. For the purposes of this subsection, a borrowing  
29 group includes a person and any legal entity, including but  
30 not limited to corporations, limited liability companies,  
31 partnerships, trusts, and associations where the following  
32 exist:

33 (1) The interests of a group of more than one borrower,  
34 or any combination of the members of the group, are so  
35 interrelated that they should be considered a unit for the

1 purpose of applying the lending limit limitations of this  
2 section. For the purposes of this subparagraph, interrelated  
3 borrowers include but are not limited to borrowers having  
4 separate operations that cannot exist without the other,  
5 borrowers sharing collateral, borrowers commingling assets,  
6 borrowers sharing operational proceeds, or borrowers for whom  
7 there is a common source of repayment for the borrowers' loans.

8 (2) One or more persons owns or controls fifty percent or  
9 more of the voting securities or membership interests of the  
10 borrowing entity or a member of the group.

11 (3) One or more persons controls, in any manner, the  
12 election of a majority of the directors, managers, trustees,  
13 or other persons exercising similar functions of the borrowing  
14 entity or a member of the group.

15 (4) One or more persons has the power to vote fifty percent  
16 or more of any class of voting securities or membership  
17 interests of the borrowing entity or a member of the group.

18 c. To demonstrate compliance with this subsection, a  
19 bank shall maintain in its files, at a minimum, all of the  
20 following:

21 (1) Documentation demonstrating the current ownership of  
22 the borrowing entity.

23 (2) Documentation identifying the persons who have voting  
24 rights in the borrowing entity.

25 (3) Documentation identifying the board of directors and  
26 senior management of the borrowing entity.

27 (4) The bank's assessment of the borrowing entity's means  
28 of servicing the loan or extension of credit, including  
29 specific reasons in support of that assessment. The assessment  
30 shall include an analysis of the borrowing entity's financial  
31 history, its present and projected economic and financial  
32 performance, and the significance of any financial support  
33 provided to the borrowing entity by members of the borrowing  
34 group and third parties.

35 Sec. 4. Section 524.904, subsection 7, Code 2011, is amended

1 by adding the following new paragraph:

2 NEW PARAGRAPH. *m.* A renewal or restructuring of a loan as  
3 a new loan or extension of credit following the exercise by  
4 a state bank of reasonable efforts, consistent with safe and  
5 sound banking practices, to bring the loan into conformance  
6 with the lending limit, unless new funds are advanced by the  
7 bank to the borrower or unless a new borrower replaces the  
8 original borrower or unless the superintendent determines that  
9 the renewal or restructuring was undertaken as a means to evade  
10 the bank's lending limit.

11 Sec. 5. Section 524.1201, subsection 4, Code 2011, is  
12 amended by striking the subsection.

13 Sec. 6. Section 535B.4, Code 2011, is amended by adding the  
14 following new subsection:

15 NEW SUBSECTION. 8A. A licensee may not establish branch  
16 locations outside of the United States.

17 Sec. 7. Section 535B.6, Code 2011, is amended to read as  
18 follows:

19 **535B.6 Licensing of ~~foreign corporation~~ certain corporations.**

20 1. An applicant that is a ~~foreign corporation~~ incorporated  
21 under the laws of another state in the United States must be  
22 authorized to do business in this state. ~~A foreign corporation~~  
23 Such a corporation shall file with the license application both  
24 of the following:

25 ~~1-~~ a. An irrevocable consent, duly acknowledged, that  
26 suits and actions may be commenced against that licensee in the  
27 courts of this state by service of process in the usual manner  
28 provided for by the statutes and court rules of this state.

29 ~~2-~~ b. Proof of authorization to do business in this state.

30 2. Businesses that are incorporated outside of the United  
31 States are not eligible for a license.

32 Sec. 8. Section 535D.4, subsection 1, Code 2011, is amended  
33 to read as follows:

34 1. On or after January 1, 2010, an individual shall not  
35 engage in the business of a mortgage loan originator with

1 respect to any dwelling or residential real estate located in  
2 this state without first obtaining and maintaining annually  
3 a license under this chapter. Each licensed mortgage loan  
4 originator must register with and maintain a valid unique  
5 identifier issued by the nationwide mortgage licensing system  
6 and registry.

7 Sec. 9. NEW SECTION. 535D.23 Reports of condition required  
8 — exceptions.

9 Each mortgage loan originator licensee shall submit  
10 reports of condition to the nationwide mortgage licensing  
11 system and registry unless the mortgage loan originator's  
12 activity is included in a report submitted by the mortgage  
13 loan originator's employer in accordance with section 535B.11,  
14 subsection 3, section 535B.18, or section 536A.14, subsection  
15 2. The reports shall be in such form and shall contain such  
16 information as the nationwide mortgage licensing system and  
17 registry may require.

18 Sec. 10. EFFECTIVE UPON ENACTMENT. The section of this  
19 Act amending section 524.904, subsection 7, takes effect upon  
20 enactment.

21 EXPLANATION

22 This bill makes several changes in connection with banking  
23 and mortgage regulation by the division of banking of the  
24 department of commerce.

25 The bill provides that the superintendent of banking  
26 is authorized to ensure that the division's information  
27 technology systems comply with information technology  
28 security requirements established by any regulatory agency or  
29 association of regulatory agencies specified in Code section  
30 524.212.

31 The bill makes changes regarding provisions relating to  
32 a state bank granting loans and extensions of credit to a  
33 corporate group. The bill provides that, while not to be  
34 construed as an endorsement of the quality of any loan or  
35 extension of credit, the superintendent may authorize a state

1 bank to grant loans and extensions of credit to a corporate  
2 group in an amount not to exceed 50 percent of aggregate  
3 capital if all loans and extensions of credit to any one  
4 borrower within a corporate group conform to an applicable  
5 percentage of capital limitations and the financial strength,  
6 assets, guarantee, or endorsement of any one corporate group  
7 member is not relied upon as a basis for loans and extensions  
8 of credit to any other corporate group member.

9 The bill modifies the definition of a corporate group for  
10 purposes of applying group bank lending limits and replaces  
11 references to "corporate" group with "borrowing" group. The  
12 bill states that a borrowing group includes a person and any  
13 legal entity, including but not limited to corporations,  
14 limited liability companies, partnerships, trusts, and  
15 associations. The bill specifies that a borrowing group shall  
16 include the interests of a group of more than one borrower,  
17 or any combination of the members of the group, which are  
18 so interrelated, as defined in the bill, that they should be  
19 considered a unit for the purpose of applying the lending  
20 limits; one or more persons owning or controlling 50 percent  
21 or more of the voting securities or membership interests  
22 of the borrowing entity or a member of the group; one or  
23 more persons controlling, in any manner, the election of a  
24 majority of the directors, managers, trustees, or other persons  
25 exercising similar functions of the borrowing entity or a  
26 member of the group; or one or more persons having the power  
27 to vote 50 percent or more of any class of voting securities  
28 or membership interests of the borrowing entity or a member  
29 of the group. The bill states that required documentation to  
30 demonstrate compliance with borrowing group bank lending limits  
31 includes, at a minimum, demonstrating the current ownership  
32 of the borrowing entity, identifying the persons who have  
33 voting rights in the borrowing entity, identifying the board  
34 of directors and senior management of the borrowing entity,  
35 and the bank's assessment of the borrowing entity's means of

1 servicing the loan or extension of credit including specific  
2 reasons in support of that assessment.

3 The bill deletes a provision which states that a bank shall  
4 not operate a loan production office or deposit production  
5 office in Iowa unless either the bank has received approval  
6 from the superintendent or the bank operated the loan  
7 production office or deposit production office prior to July  
8 1, 2006.

9 The bill includes in the list of exemptions from a bank's  
10 lending limit a renewal or restructuring of a loan as a new  
11 loan or extension of credit if efforts had been made to bring  
12 the loan into conformance with the lending limit, unless as  
13 part of the renewal or restructuring new funds are advanced  
14 by the bank to the borrower or a new borrower replaces the  
15 original borrower or the superintendent determines that a  
16 renewal or restructuring was undertaken as a means to evade the  
17 bank's lending limit. This provision of the bill takes effect  
18 upon enactment.

19 The bill provides that a mortgage banker or mortgage broker  
20 licensed under Code chapter 535B may not establish branch  
21 locations outside of the United States, specifies that an  
22 applicant incorporated under the laws of another state in the  
23 United States must be authorized to do business in Iowa, and  
24 specifies that businesses that are incorporated outside of the  
25 United States are not eligible for licensure.

26 The bill adds persons or entities licensed under Code  
27 chapter 535D, the mortgage licensing act, to provisions  
28 prohibiting the superintendent, general counsel, examiners,  
29 and other employees of the banking division, if engaged in  
30 credit relations with the person or entity, from participating  
31 in specified regulatory actions over the person or entity.  
32 The bill provides that an individual shall not engage in  
33 the business of a mortgage loan originator with respect  
34 to any dwelling or residential real estate located in this  
35 state without obtaining and maintaining a license under Code



1 chapter 535D. This provision had previously been restricted  
2 to "residential real estate". The bill establishes a new  
3 requirement that each mortgage loan originator licensee under  
4 the Code chapter shall submit to the nationwide mortgage  
5 licensing system and registry reports of condition required by  
6 the system and registry, unless the mortgage loan originator's  
7 activity is included in a mortgage call report submitted by  
8 the originator's employer in accordance with specified Code  
9 sections.