

House File 630 - Introduced

HOUSE FILE 630

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 559)

(SUCCESSOR TO HSB 126)

A BILL FOR

1 An Act relating to banks, credit unions, and certain consumer
2 credit transactions.

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

1 Section 1. Section 524.213, Code 2017, is amended to read
2 as follows:

3 **524.213 Duties and powers of superintendent.**

4 The superintendent shall have general control, supervision
5 and regulation of all state banks and shall be charged with
6 the administration, interpretation, and execution of the laws,
7 rules, and regulations of this state and any other state or
8 federal law or regulation relating to banks and banking and
9 with such other duties and responsibilities as are imposed
10 upon the superintendent by the laws of this state. The
11 superintendent shall have power to adopt and promulgate such
12 rules and regulations as necessary to carry out and enforce,
13 properly and effectively, the provisions of **this chapter** and
14 chapter 12C applicable to banks.

15 Sec. 2. Section 524.612, subsections 1, 2, and 5, Code 2017,
16 are amended by striking the subsections.

17 Sec. 3. Section 524.612, subsection 3, Code 2017, is amended
18 to read as follows:

19 3. A director shall not receive terms or be paid a rate
20 of interest on deposits, by a state bank of which the person
21 is a director, which are more favorable than that provided to
22 any other customer under similar circumstances. Any waiver of
23 ordinary or customary charges related to deposit accounts shall
24 not violate this subsection.

25 Sec. 4. Section 524.613, subsection 2, Code 2017, is amended
26 by striking the subsection.

27 Sec. 5. Section 524.706, subsection 1, Code 2017, is amended
28 by striking the subsection.

29 Sec. 6. Section 524.706, subsection 2, Code 2017, is amended
30 to read as follows:

31 2. Section 524.612, ~~subsection 2,~~ applies to executive
32 officers, ~~and section 524.612, subsections 3 and 4,~~ apply to
33 ~~all officers and employees.~~

34 Sec. 7. Section 524.710, subsection 2, Code 2017, is amended
35 by striking the subsection.

1 Sec. 8. Section 524.1601, subsection 1, paragraph b, Code
2 2017, is amended to read as follows:

3 b. The amount by which the director's, or executive
4 officer's, ~~or employee's~~ deposit account in the state bank
5 or bank holding company is overdrawn, ~~upon conviction of a~~
6 in violation of section 524.613, subsection 2, or of section
7 ~~524.710, subsection 2~~ 12 C.F.R. §215.4(e).

8 Sec. 9. Section 524.1601, subsection 2, Code 2017, is
9 amended to read as follows:

10 2. A director or officer who willfully makes or receives a
11 loan in violation of ~~section 524.612, subsection 1, or section~~
12 ~~524.706, subsection 1~~ 12 C.F.R. §215.4 or 215.5, shall be
13 guilty of a serious misdemeanor and shall be subject to an
14 additional fine equal to that amount of the loan in excess
15 of the limitation imposed by such ~~subsections~~ regulations,
16 and shall be forever disqualified from acting as a director
17 or officer of any state bank or bank holding company. ~~For~~
18 ~~the purpose of this subsection~~, amounts which are treated as
19 ~~obligations of an officer or director pursuant to section~~
20 ~~524.612, subsection 5~~, shall be considered in determining
21 ~~whether the loan or extension of credit is in violation of~~
22 section 524.612, subsection 1, and section 524.706, subsection
23 ~~1.~~

24 Sec. 10. Section 524.1806, Code 2017, is amended to read as
25 follows:

26 **524.1806 Banks owned or controlled — officers and directors.**

27 An individual who is a director or an officer of a bank
28 holding company, as specified by section 524.1801, is deemed
29 to be a director or an officer, or both, as the case may be, of
30 each bank so owned or controlled by that bank holding company,
31 for the purposes of sections 524.612, 524.613 and 524.706, and
32 for the purposes of 12 C.F.R. pt. 215.

33 Sec. 11. Section 533.205, subsection 7, Code 2017, is
34 amended to read as follows:

35 7. A state credit union ~~shall not~~ may pay an overdraft of a

1 director, officer, or employee of the state credit union on an
2 account at the state credit union, ~~unless~~ subject to the rules
3 of the superintendent, when the payment of funds is made in
4 accordance with ~~either~~ any of the following:

5 a. A written, preauthorized, interest-bearing extension of
6 credit plan that specifies a method of repayment.

7 b. A written, preauthorized transfer of collected funds
8 from another account of the account holder at the state credit
9 union.

10 c. The overdraft is paid pursuant to an overdraft protection
11 plan or courtesy pay program.

12 Sec. 12. Section 537.2301, Code 2017, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 2A. A supervised loan made by a person in
15 violation of subsection 2 shall be void and the consumer is
16 not obligated to pay either the amount financed or the finance
17 charge. If the consumer has paid any part of the amount
18 financed or the finance charge, the consumer has a right to
19 recover the payment from the person in violation of subsection
20 2 or from an assignee of that person's rights who undertakes
21 direct collection of payments or enforcement of rights arising
22 from the debt. With respect to violations arising from
23 loans made pursuant to open-end credit, no action pursuant
24 to this subsection may be brought more than two years after
25 the violation occurred. With respect to violations arising
26 from other loans, no action pursuant to this subsection may
27 be brought more than one year after the due date of the last
28 scheduled payment of the agreement pursuant to which the charge
29 was paid.

30 Sec. 13. Section 537.2501, subsection 1, paragraph f,
31 subparagraph (1), Code 2017, is amended to read as follows:

32 (1) With respect to open-end credit pursuant to a credit
33 card issued by the creditor which entitles the cardholder
34 to purchase or lease goods or services from at least one
35 hundred persons not related to the card issuer, the parties

1 may contract for an over-limit charge ~~up to fifteen dollars in~~
2 accordance with 12 C.F.R. §1026.52(b) if the balance of the
3 account exceeds the credit limit established pursuant to the
4 agreement. The over-limit charge under this paragraph shall
5 not be assessed again in a subsequent billing cycle unless in a
6 subsequent billing cycle the account balance has been reduced
7 below the credit limit.

8 Sec. 14. Section 537.2501, subsection 1, paragraph g, Code
9 2017, is amended to read as follows:

10 ~~g. A surcharge of not more than five percent of the amount~~
11 ~~of the face value of the payment instrument or twenty dollars,~~
12 ~~whichever is greater, for each dishonored payment instrument~~
13 ~~provided that the fee is clearly and conspicuously disclosed~~
14 ~~in the cardholder agreement. However, the amount of the~~
15 ~~surcharge shall not exceed twenty dollars unless the check,~~
16 ~~draft, or order was presented twice or the maker does not have~~
17 ~~an account with the drawee. If the check, draft, or order was~~
18 ~~presented twice or the maker does not have an account with the~~
19 ~~drawee, the amount of the surcharge shall not exceed fifty~~
20 ~~dollars as provided for in section 554.3512 for a dishonored~~
21 ~~check, draft, or order that was accepted as payment for a~~
22 consumer credit transaction payment. The surcharge shall not
23 be assessed against the maker if the reason for the dishonor of
24 the instrument is that the maker has stopped payment pursuant
25 to [section 554.4403](#).

26 Sec. 15. Section 537.2501, subsection 1, Code 2017, is
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. *k.* Credit reporting charges.

29 Sec. 16. Section 537.2502, subsection 1, paragraph a,
30 subparagraph (1), Code 2017, is amended to read as follows:

31 (1) Five percent of the unpaid amount of the installment, or
32 a maximum of ~~twenty~~ thirty dollars.

33 Sec. 17. Section 537.2502, subsection 1, paragraph b, Code
34 2017, is amended to read as follows:

35 *b.* For an interest-bearing transaction, an amount not

1 exceeding five percent of the unpaid amount of the installment,
2 or a maximum of ~~fifteen~~ thirty dollars.

3 Sec. 18. Section 537.2502, subsection 4, Code 2017, is
4 amended to read as follows:

5 4. With respect to open-end credit, the parties may contract
6 for a delinquency charge on any payment not paid in full when
7 due, as originally scheduled or as deferred, in an amount up to
8 ~~fifteen~~ thirty dollars.

9 Sec. 19. Section 537.2510, Code 2017, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 8. This section does not apply to a
12 financial institution as defined in section 537.1301.

13 Sec. 20. Section 537.5201, subsection 3, Code 2017, is
14 amended to read as follows:

15 3. If a creditor has contracted for or received a charge
16 in excess of that allowed by [this chapter](#), or if a consumer
17 is entitled to a refund and a person liable to the consumer
18 refuses to make a refund within a reasonable time after demand,
19 the consumer may recover from the creditor or the person
20 liable, in an action other than a class action, the excess
21 charge or refund and a penalty in an amount determined by the
22 court not less than ~~one~~ two hundred dollars or more than ~~one~~
23 two thousand dollars. With respect to excess charges arising
24 from sales or loans made pursuant to open-end credit, no action
25 pursuant to [this subsection](#) may be brought more than two years
26 after the time the excess charge was made. With respect to
27 excess charges arising from other consumer credit transactions
28 no action pursuant to [this subsection](#) may be brought more than
29 one year after the due date of the last scheduled payment of
30 the agreement pursuant to which the charge was made. For
31 purposes of [this subsection](#), a reasonable time is presumed to
32 be thirty days.

33 Sec. 21. Section 537.5203, subsection 1, paragraph a, Code
34 2017, is amended to read as follows:

35 a. Twice the amount of the finance charge in connection with

1 the transaction, but the liability pursuant to this paragraph
2 shall be not less than ~~one~~ two hundred dollars or more than ~~one~~
3 two thousand dollars.

4 Sec. 22. Section 537.6113, subsection 2, Code 2017, is
5 amended to read as follows:

6 2. The administrator may bring a civil action against a
7 person to recover a civil penalty of no more than ~~five~~ ten
8 thousand dollars for repeatedly and intentionally violating
9 this chapter. No civil penalty pursuant to this subsection
10 may be imposed for violations of this chapter occurring more
11 than two years before the action is brought or for making
12 unconscionable agreements or engaging in a course of fraudulent
13 or unconscionable conduct.

14 Sec. 23. Section 537.6203, subsections 1 and 4, Code 2017,
15 are amended to read as follows:

16 1. A person required to file notification shall pay to the
17 administrator an annual fee of ~~ten~~ fifty dollars. The fee
18 shall be paid with the filing of the first notification and on
19 or before January 31 of each succeeding year.

20 4. In addition to the penalties provided by section
21 537.6113, subsection 3, the administrator may collect a charge,
22 established by rule, not exceeding ~~twenty-five~~ seventy-five
23 dollars from each person required to pay fees under this
24 section who fails to pay the fees in full within thirty days
25 after they are due.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to banks, credit unions, and certain
30 consumer credit transactions.

31 The bill modifies several provisions relating to state
32 banks in Code chapter 524. The bill specifies that the
33 superintendent of banking is charged with the administration,
34 interpretation, and execution of the laws, rules, and
35 regulations of any state or federal law or regulation relating

1 to banking. The bill eliminates various provisions applicable
2 to the directors and officers of state banks, including
3 limitations on the receipt of loans and extensions of credit
4 by such persons. However, the bill adds several references to
5 federal law regulating loans to directors and officers in Code
6 chapter 524.

7 Current Code section 533.205(7) provides that a state credit
8 union shall not pay an overdraft of a director, officer, or
9 employee, unless the payment is made in accordance with an
10 extension of credit plan or transfer of funds from another
11 account at the state credit union. The bill modifies this
12 Code section by providing that a state credit union may pay
13 an overdraft of a director, officer, or employee, subject to
14 the rules of the superintendent, when the payment is made in
15 accordance with an extension of credit plan, transfer of funds
16 from another account at the state credit union, or pursuant to
17 an overdraft protection plan or courtesy pay program.

18 Current Code section 537.2301 authorizes certain persons to
19 make supervised loans. The bill provides that a supervised
20 loan made by a person in violation of Code section 537.2301(2)
21 is void and the consumer is not obligated to pay the amount
22 financed or the finance charge. A consumer who has already
23 paid any part of such amount or charge may recover the payment.
24 With respect to violations arising from loans made pursuant
25 to open-end credit, no action may be brought pursuant to the
26 bill more than two years after the violation occurred. With
27 respect to violations arising from other loans, no action may
28 be brought pursuant to the bill more than one year after the
29 due date of the last scheduled payment of the agreement for
30 which the charge was paid.

31 Current Code section 537.2501 sets forth the charges that
32 a creditor may receive in addition to a finance charge. The
33 bill modifies the over-limit charge the parties to an open-end
34 credit pursuant to a credit card transaction may contract for
35 from up to \$15 to a charge in accordance with federal law. The

1 bill modifies the surcharge in Code section 537.2501(1)(g) to
2 authorize a surcharge for a dishonored check, draft, or order
3 not to exceed \$30 as provided for in Code section 554.3512.
4 The bill also provides that a creditor may receive credit
5 reporting charges.

6 Current Code section 537.2502 allows the parties in certain
7 consumer credit transactions to contract for delinquency
8 charges. For a precomputed consumer credit transaction, the
9 maximum delinquency charge is increased from the greater of 5
10 percent of the unpaid installment or \$20, to the greater of
11 5 percent of the unpaid installment or \$30, or the deferral
12 charge amount. For an interest-bearing consumer credit
13 transaction, the maximum delinquency charge is increased from 5
14 percent of the unpaid installment or \$15, to 5 percent of the
15 unpaid installment or \$30. For an open-credit arrangement, the
16 maximum delinquency charge is increased from \$15 to \$30.

17 Current Code section 537.2510 requires creditors to rebate
18 certain amounts to consumers upon the prepayment of precomputed
19 consumer credit transactions. The bill provides that Code
20 section 537.2510 does not apply to financial institutions as
21 defined in Code section 537.1301. This would include banks,
22 savings and loan associations, or state banks incorporated
23 under state or federal law, and credit unions organized under
24 state or federal law.

25 Current Code section 537.5201 sets forth the remedies
26 available to consumers for violations of Code chapter 537. The
27 bill increases the penalty a creditor must pay for contracting
28 for or receiving a charge in excess of that allowed by Code
29 chapter 537 from not less than \$100 or more than \$1,000, to not
30 less than \$200 or more than \$2,000.

31 Current Code section 537.5203 sets forth the civil liability
32 of a creditor who fails to disclose information to a person
33 entitled to the information under Code chapter 537. The bill
34 increases the amount a creditor is liable to such person from
35 not less than \$100 or more than \$1,000 to not less than \$200 or

1 more than \$2,000.

2 Current Code section 537.6113 allows the attorney general to
3 bring civil actions to recover moneys under Code chapter 537.
4 The bill increases the civil penalty the attorney general may
5 recover from a person for repeated and intentional violations
6 of Code chapter 537 from no more than \$5,000 to no more than
7 \$10,000.

8 Current Code section 537.6203 sets forth various fees and
9 charges for persons required to file notification pursuant to
10 Code chapter 537. The bill increases the annual fee for a
11 person required to file notification from \$10 to \$50. The bill
12 also increases the late charge for failure to pay a fee within
13 30 days that it is due from no more than \$25 per person to no
14 more than \$75 per person.