

**Senate File 502 - Introduced**

SENATE FILE 502

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 418)

(SUCCESSOR TO SSB 1118)

**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.