

House Study Bill 243 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON HEIN)

A BILL FOR

1 An Act requiring the licensure of small dollar installment loan
2 businesses, and providing criminal and civil penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 536B.1 Title.

2 This chapter shall be known and may be cited as the "Iowa
3 *Small Dollar Installment Loan Act*".

4 Sec. 2. NEW SECTION. 536B.2 Definitions.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Annual percentage rate*" means the measure of the cost
8 of credit, expressed as a yearly rate, that relates the amount
9 extended to a consumer on a small dollar installment loan to
10 the amount and timing of payments made, as computed under the
11 federal Truth in Lending Act.

12 2. "*Consumer*" means an individual who obtains a small dollar
13 installment loan.

14 3. "*Federal Truth in Lending Act*" means as defined in
15 section 537.1302.

16 4. "*Finance charge*" means the amount payable by a consumer
17 incident to or as a condition of the extension of a small
18 dollar installment loan but excluding other fees allowed under
19 section 536B.22.

20 5. "*Licensee*" means a person licensed pursuant to this
21 chapter.

22 6. "*Person*" means the same as defined in section 533D.2.

23 7. "*Regularly engaged in the business*" means any of the
24 following:

25 a. Advertising to or making any other solicitation to a
26 resident of this state to offer a small dollar installment loan
27 within this state.

28 b. Making three or more small dollar installment loans
29 within a calendar year to residents of this state.

30 8. "*Small dollar installment loan*" is a loan in which all of
31 the following are applicable:

32 a. The debt is incurred for a personal, family, or household
33 purpose.

34 b. The debt is not less than five hundred dollars and not
35 more than one thousand dollars.

1 c. The debt is unsecured.

2 d. The lender holds the consumer's check or checks
3 for a specified period, or obtains the consumer's written
4 authorization to debit the consumer's account, other than as
5 a result of default, under an agreement, either express or
6 implied, for a specified period, before the lender does any of
7 the following:

8 (1) Offers the check or checks for deposit or presentment.

9 (2) Exercises the consumer's written authorization to debit
10 the consumer's account.

11 e. The debt is payable in biweekly, semimonthly, or monthly
12 payment installments, in accordance with the dates that the
13 consumer is scheduled to receive income payments.

14 f. The debt is subject to prepayment in whole or in part at
15 any time without penalty.

16 g. The term length of the loan is not less than six months
17 and not more than twelve months.

18 9. "*Small dollar installment loan business*" means a person
19 who advertises to make, solicit, or hold the person out to make
20 a small dollar installment loan to a consumer in this state.

21 10. "*Superintendent*" means the superintendent of banking
22 within the banking division of the department of commerce.

23 Sec. 3. NEW SECTION. 536B.3 Exemptions.

24 This chapter shall not apply to any of the following:

25 1. A person who does business under the authority of a
26 law of this state, or any other state while regulated by a
27 state agency of that other state, or of the United States,
28 relating to banks, savings banks, trust companies, savings and
29 loan associations, profit sharing and pension trusts, credit
30 unions, insurance companies, or receiverships if the person
31 is regulated by the other law or under the jurisdiction of a
32 court.

33 2. A person who is not regularly engaged in the business of
34 making a small dollar installment loan.

35 3. A person who is licensed pursuant to another law of this

1 state to the extent that the person's activities are governed
2 by that law.

3 4. A consumer loan to the extent provided under chapter
4 533D, 535C, 536, 536A, 536C, or 537.

5 Sec. 4. NEW SECTION. **536B.4 License required — application**
6 **process — display.**

7 1. A person shall not operate a small dollar installment
8 loan business in this state unless the person is physically
9 located in this state and licensed by the superintendent as
10 provided in this chapter.

11 2. An applicant for a license shall submit an application to
12 the superintendent on forms prescribed by the superintendent.
13 The forms shall contain such information as the superintendent
14 may prescribe.

15 3. The application required by this section shall be
16 submitted with the following:

17 a. An application fee of one hundred dollars.

18 b. A surety bond executed by a surety company authorized to
19 do business in this state in the sum of twenty-five thousand
20 dollars, which bond shall be continuous in nature until
21 canceled by the surety. A surety shall provide at least
22 thirty days' notice in writing to the licensee and to the
23 superintendent indicating the surety's intent to cancel the
24 bond and the effective date of the cancellation. The surety
25 bond shall be for the benefit of the citizens of this state and
26 shall be conditioned upon the licensee's willingness to comply
27 with this chapter, the faithful performance by the licensee
28 of the duties and obligations pertaining to the small dollar
29 installment loan business so licensed, and the prompt payment
30 of any judgment recovered against the licensee. The surety's
31 liability under this chapter is limited to the amount of the
32 bond regardless of the number of years the bond is in effect.

33 4. The superintendent shall issue a license to an applicant
34 if the superintendent finds all of the following:

35 a. The experience, character, and general fitness of the

1 applicant and its officers, directors, shareholders, partners,
2 or members are such as to warrant a finding that the applicant
3 will conduct the small dollar installment loan business
4 honestly, fairly, and efficiently.

5 *b.* The applicant and its officers, directors, shareholders,
6 partners, or members have not been convicted of a felony in
7 this state, or convicted of a crime in another jurisdiction
8 which would be a felony in this state.

9 *c.* The applicant is financially responsible and will conduct
10 the small dollar installment loan business pursuant to this
11 chapter and other applicable laws.

12 *d.* The applicant has unencumbered assets of at least
13 twenty-five thousand dollars available for operating the small
14 dollar installment loan business.

15 5. The superintendent shall approve or deny an application
16 for a license by written order not more than ninety days after
17 the filing of an application. An order of the superintendent
18 issued pursuant to this section may be appealed pursuant to
19 chapter 17A.

20 6. *a.* A license issued pursuant to this chapter shall
21 be conspicuously posted at the licensee's place of business.
22 A license shall remain in effect until the next succeeding
23 January 1, unless earlier suspended or revoked by the
24 superintendent.

25 *b.* A license shall be renewed annually by filing with the
26 superintendent on or before December 1 an application for
27 renewal containing such information as the superintendent may
28 require to indicate any material change in the information
29 contained in the original application or succeeding renewal
30 applications and a renewal fee of two hundred fifty dollars.

31 *c.* The superintendent may assess a late fee of ten dollars
32 per day for applications submitted and accepted for processing
33 after December 1.

34 7. The superintendent may authorize applicants and
35 licensees to be licensed through a nationwide licensing system

1 and to pay the corresponding system processing fees. The
2 superintendent may establish by rule or order new requirements
3 as necessary, including but not limited to requirements that
4 applicants, including officers and directors and those who have
5 control of the applicant, submit to fingerprinting and criminal
6 history checks.

7 8. For the purposes of this section and in order to reduce
8 the points of contact which the federal bureau of investigation
9 may be required to maintain for purposes of subsection 7,
10 the superintendent may use the nationwide licensing system
11 as a channeling agent for requesting information from and
12 distributing information to the United States department of
13 justice or other governmental agency, or to or from any other
14 source so directed by the superintendent.

15 Sec. 5. NEW SECTION. 536B.5 **Surrender of license.**

16 A licensee may surrender a small dollar installment loan
17 license by delivering to the superintendent written notice that
18 the license is surrendered. The surrender does not affect the
19 licensee's civil or criminal liability for acts committed prior
20 to such surrender, the liability of the surety on the bond, or
21 entitle such licensee to a return of any part of the annual
22 license fee. The superintendent may establish procedures for
23 the disposition of the books, accounts, and records of the
24 licensee and may require such action as deemed necessary for
25 the protection of the makers of checks which are outstanding at
26 the time of surrender of the license.

27 Sec. 6. NEW SECTION. 536B.6 **Change in circumstances —**
28 **notification of superintendent.**

29 A licensee is to notify the superintendent in writing
30 within thirty days of the occurrence of a material development
31 affecting the licensee, including but not limited to any of the
32 following:

- 33 1. Filing for bankruptcy or reorganization.
- 34 2. Reorganization of the business.
- 35 3. Commencement of license revocation or any other civil or

1 criminal proceedings by any other state or jurisdiction.

2 4. The filing of a criminal indictment or complaint against
3 the licensee or any of the licensee's officers, directors,
4 shareholders, partners, members, employees, or agents.

5 5. A felony conviction against the licensee or any of
6 the licensee's officers, directors, shareholders, partners,
7 members, employees, or agents.

8 **Sec. 7. NEW SECTION. 536B.7 Continued operation after**
9 **change in ownership — approval of superintendent required.**

10 1. The prior written approval of the superintendent
11 is required for the continued operation of a small dollar
12 installment loan business whenever a change in control of a
13 licensee is proposed. The person requesting such approval
14 shall pay to the superintendent a fee of one hundred dollars.
15 Control in the case of a corporation means direct or indirect
16 ownership of, or the right to control, ten percent or more
17 of the voting shares of the corporation, or the ability of
18 a person to elect a majority of the directors or otherwise
19 effect a change in policy. Control in the case of any other
20 entity means any change in the principals of the organization,
21 whether active or passive. The superintendent may require
22 information deemed necessary to determine whether a new
23 application is required. Costs incurred by the superintendent
24 in investigating a change of control request shall be paid by
25 the person requesting such approval.

26 2. A license issued pursuant to this chapter is not
27 transferable or assignable.

28 **Sec. 8. NEW SECTION. 536B.8 Principal place of business —**
29 **branch offices authorized.**

30 1. Except as provided in subsection 2, a licensee may
31 operate a small dollar installment loan business only at an
32 office designated as its principal place of business in the
33 application. The licensee shall maintain its books, accounts,
34 and records at its designated principal place of business. A
35 licensee may change the location of its designated principal

1 place of business with the prior written approval of the
2 superintendent. The superintendent shall establish forms and
3 procedures for determining whether the change of location
4 should be approved.

5 2. A licensee may operate branch offices only in the same
6 county in which the licensee's designated principal place of
7 business is located. The licensee may establish a branch
8 office or change the location of a branch office with the prior
9 written approval of the superintendent. The superintendent
10 shall establish forms and procedures for determining whether
11 the location of a branch office should be approved.

12 3. A fee of twenty-five dollars shall be paid to the
13 superintendent for each request made pursuant to subsection
14 1 or 2 for a change of location. For each new branch office
15 established, a fee of two hundred fifty dollars shall be paid
16 to the superintendent.

17 Sec. 9. NEW SECTION. 536B.9 **Notice of name change.**

18 A licensee shall notify the superintendent thirty days in
19 advance of the effective date of a change in the name of the
20 licensee. With the notice of change, the licensee shall submit
21 a fee of twenty-five dollars per license to the superintendent.

22 Sec. 10. NEW SECTION. 536B.10 **Other business operations**
23 **at same site — restrictions.**

24 1. A licensee may operate a small dollar installment loan
25 business at a location where any other business is operated or
26 in association or conjunction with any other business with the
27 written approval of the superintendent and consistent with both
28 of the following requirements:

29 a. The books, accounts, and records of the small dollar
30 installment loan business are kept and maintained separate
31 and apart from the books, accounts, and records of the other
32 business.

33 b. The other business is not of a type which would tend
34 to enable the concealment of acts engaged in to evade the
35 requirements of this chapter. If the superintendent determines

1 upon investigation that the other business is of a type which
2 would conceal such acts the superintendent shall order the
3 licensee to cease the operation of the small dollar installment
4 loan business at the location.

5 2. The department may order the licensee to cease operations
6 of the business if it fails to obtain written approval of the
7 superintendent before operating a business in association or
8 conjunction with services provided under this chapter.

9 Sec. 11. NEW SECTION. 536B.11 **Examination of records by**
10 **superintendent — fees.**

11 1. The superintendent shall examine the books, accounts,
12 and records of each licensee at least once a year and as needed
13 to secure information required pursuant to this chapter and to
14 determine whether any violations of this chapter have occurred.
15 The licensee shall pay the cost of the examination.

16 2. The superintendent may examine or investigate complaints
17 or reports concerning alleged violations of this chapter or
18 any rule adopted or order issued by the superintendent. The
19 superintendent may order the actual cost of the examination or
20 investigation to be paid by the person who is the subject of
21 the examination or investigation, whether or not the alleged
22 violator is licensed.

23 3. The superintendent shall determine the cost of the
24 examination or investigation based upon the actual cost of the
25 operation of the finance bureau of the banking division of
26 the department of commerce, including the proportionate share
27 of administrative expenses in the operation of the banking
28 division attributable to the finance bureau as determined by
29 the superintendent, incurred in the discharge of duties imposed
30 upon the superintendent by this chapter.

31 4. Failure to pay the examination or investigation fee
32 within thirty days of receipt of demand from the superintendent
33 shall subject the licensee to a late fee of up to five percent
34 of the amount of the examination or investigation fee for each
35 day the payment is delinquent.

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

17 6. The superintendent may receive documents, materials,
18 or other information, including otherwise confidential and
19 privileged documents, materials, or other information, through
20 a nationwide licensing system and from other local, state,
21 federal, or international regulatory agencies, the conference
22 of state bank supervisors and its affiliates and subsidiaries,
23 the national association of consumer credit administrators
24 and its affiliates and subsidiaries, and any other regulator
25 association, and shall maintain as confidential and privileged
26 any such document, material, or other information received
27 with notice or the understanding that it is confidential or
28 privileged under the laws of the jurisdiction that is the
29 source of the document, material, or other information.

30 **Sec. 12. NEW SECTION. 536B.12 Disciplinary action.**

31 1. The superintendent may, after notice and hearing
32 pursuant to chapter 17A, take disciplinary action against a
33 licensee if the superintendent finds any of the following:

34 a. The licensee or any of its officers, directors,
35 shareholders, partners, or members has violated this chapter,

1 any rule adopted by the superintendent, or any other state or
2 federal law applicable to the conduct of its business.

3 *b.* The licensee has failed to pay a license fee required
4 under this chapter or to maintain in effect the bond or bonds
5 required under this chapter.

6 *c.* A fact or condition existing which, if it had existed
7 at the time of the original application for the license, would
8 have resulted in the denial of issuance of a license.

9 *d.* The licensee has abandoned its place of business for a
10 period of sixty days or more.

11 *e.* The licensee fails to pay an administrative penalty or
12 the cost of investigation as ordered by the superintendent.

13 *f.* The licensee has violated an order of the superintendent.

14 2. The superintendent may impose one or more of the
15 following disciplinary actions against a licensee:

16 *a.* Revoke a license.

17 *b.* Suspend a license until further order of the
18 superintendent or for a specified period of time.

19 *c.* Impose a period of probation under specified conditions.

20 *d.* Impose civil penalties in an amount not to exceed five
21 thousand dollars for each violation.

22 *e.* Issue a citation and warning respecting licensee
23 behavior.

24 *f.* Order the licensee to pay restitution.

25 3. The superintendent may order an emergency suspension
26 of a licensee's license pursuant to section 17A.18A. A
27 written order containing the facts or conduct which warrants
28 the emergency action shall be timely sent to the licensee by
29 restricted certified mail. Upon issuance of the suspension
30 order, the licensee must also be notified of the right to an
31 evidentiary hearing. A suspension proceeding shall be promptly
32 instituted and determined.

33 4. Except as provided in this section, a license shall
34 not be revoked or suspended except after notice and a hearing
35 thereon in accordance with chapter 17A.

1 5. A licensee may surrender a license by delivering to the
2 superintendent written notice of surrender, but a surrender
3 does not affect the licensee's civil or criminal liability for
4 acts committed before the surrender.

5 6. A revocation, suspension, or surrender of a license does
6 not impair or affect the obligation of a preexisting lawful
7 contract between the licensee and any person, including a
8 debtor.

9 Sec. 13. NEW SECTION. 536B.13 Cease and desist order —
10 injunction.

11 1. If the superintendent believes that any person has
12 engaged in or is about to engage in an act or practice
13 constituting a violation of this chapter or any rule adopted
14 or order issued by the superintendent, the superintendent may
15 issue and serve on the person a cease and desist order. Upon
16 entry of a cease and desist order the superintendent shall
17 promptly notify in writing all persons to whom the order is
18 directed that it has been entered and the reasons for the
19 order. Any person to whom the order is directed may request
20 in writing a hearing within fifteen business days after the
21 date of the issuance of the order. Upon receipt of the written
22 request, the matter shall be set for hearing within fifteen
23 business days of the receipt by the superintendent, unless
24 the person requesting the hearing consents to a later date.
25 If a hearing is not requested within fifteen business days
26 and none is ordered by the superintendent, the order of the
27 superintendent shall automatically become final and remain in
28 effect until modified or vacated by the superintendent. If
29 a hearing is requested or ordered, the superintendent, after
30 notice and hearing, shall issue written findings of fact and
31 conclusions of law and shall affirm, vacate, or modify the
32 order.

33 2. The superintendent may vacate or modify an order if
34 the superintendent finds that the conditions which caused
35 its entry have changed or that it is otherwise in the public

1 interest to do so. Any person aggrieved by a final order of the
2 superintendent may appeal the order as provided in chapter 17A.

3 3. If it appears that a person has engaged in or is engaging
4 in an act or practice in violation of this chapter, the
5 attorney general may initiate an action in the district court
6 to enjoin such acts or practices and to enforce compliance with
7 this chapter. Upon a showing of a violation of this chapter,
8 a permanent or temporary injunction, restraining order, or
9 writ of mandamus shall be granted or a receiver or conservator
10 may be appointed to oversee the person's assets. The attorney
11 general shall not be required to post a bond.

12 Sec. 14. NEW SECTION. 536B.14 **Administrative penalty.**

13 1. If the superintendent finds, after notice and hearing
14 as provided in this chapter, that a person has violated this
15 chapter, a rule adopted pursuant to this chapter, or an order
16 of the superintendent, the superintendent may order the person
17 to pay an administrative fine of not more than five thousand
18 dollars for each violation, in addition to the costs of
19 investigation.

20 2. If a person fails to pay an administrative fine and the
21 costs of investigation ordered pursuant to subsection 1, a
22 lien in the amount of the fine and costs may be imposed upon
23 all assets and property of the person in this state and may be
24 recovered in a civil action by the superintendent. Failure of
25 the person to pay the fine and costs constitutes a separate
26 violation of this chapter.

27 Sec. 15. NEW SECTION. 536B.15 **Criminal violation —**
28 **operation of business without license — injunction.**

29 A person required to be licensed under this chapter who
30 operates a small dollar installment loan business in this state
31 without first obtaining a license under this chapter or while
32 such license is suspended or revoked by the superintendent is
33 guilty of a serious misdemeanor. In addition to the criminal
34 penalty provided for in this section, the superintendent
35 may also commence an action to enjoin the operation of the

1 business.

2 Sec. 16. NEW SECTION. 536B.16 Impairment of preexisting
3 loan.

4 1. The revocation, suspension, surrender, expiration, or
5 alteration of a license provided under this chapter shall not
6 impair or affect any of the following:

7 a. The obligation of a lawful preexisting small dollar
8 installment loan between a small dollar installment loan
9 business and a consumer.

10 b. The ability or right of a small dollar installment loan
11 business to service a preexisting small dollar installment loan
12 from outside this state.

13 2. If this chapter or any part of this chapter is modified,
14 amended, or repealed, resulting in a cancellation or alteration
15 of any small dollar installment loan business license or
16 right of a licensee under this chapter, that cancellation or
17 alteration shall not impair or affect the obligation of any
18 preexisting contract between a small dollar installment loan
19 business and any consumer.

20 Sec. 17. NEW SECTION. 536B.17 Restrictions.

21 1. A licensee shall not knowingly advertise, display,
22 distribute, broadcast, or televise, or cause or allow to be
23 advertised, displayed, distributed, broadcast, or televised, in
24 any manner, any false, misleading, or deceptive statement or
25 representation with regard to the rates, terms, or conditions
26 of a small dollar installment loan. To the extent applicable,
27 all advertising shall comply with the advertising requirements
28 specified in the federal Truth in Lending Act.

29 2. a. A licensee shall not provide a small dollar
30 installment loan with an annual percentage rate greater than
31 that provided in 10 U.S.C. §987(b), to any of the following:

32 (1) A member of the United States armed forces who is on
33 active duty under a call or order that does not specify a
34 period of thirty days or less.

35 (2) A person on active national guard duty or armed forces

1 military reserve active duty.

2 (3) A dependent as defined in 10 U.S.C. §987(i).

3 b. A licensee shall not provide a small dollar installment
4 loan to a consumer unless the consumer has signed a statement,
5 to be included as part of the loan, attesting to whether or not
6 the consumer is a military member or a dependent as defined
7 in 10 U.S.C. §987(i). The statement shall be in the form as
8 prescribed by the superintendent by rule.

9 c. An unsecured consumer loan made in violation of 10 U.S.C.
10 §987 is void and its terms and conditions unenforceable.

11 Sec. 18. NEW SECTION. 536B.18 Rules.

12 The superintendent may adopt rules to administer this
13 chapter.

14 Sec. 19. NEW SECTION. 536B.19 Noncompliance.

15 1. A small dollar installment loan that is provided by
16 a person who is required to be licensed under this chapter
17 but who is not licensed is void and its terms and conditions
18 unenforceable.

19 2. Except as provided in subsection 1 and section 536B.17,
20 subsection 2, failure to comply with this chapter shall
21 not affect the validity or enforceability of a small dollar
22 installment loan.

23 Sec. 20. NEW SECTION. 536B.20 Disclosures.

24 1. To the extent applicable, a licensee shall comply with
25 the disclosure requirements as set forth in the federal Truth
26 in Lending Act.

27 2. A licensee shall conspicuously display a sign printed
28 in at least twelve-point bold font type at each desk in the
29 licensed office and licensed branch office where small dollar
30 installment loan transactions are conducted with the following
31 disclosure:

32 Notice: Before signing any loan documents or otherwise
33 committing to a loan, you may take copies of those documents
34 away from the small dollar installment loan business's place
35 of business for review.

1 3. A licensee providing electronic small dollar installment
2 loans shall conspicuously display the following disclosure on
3 the licensee's internet site:

4 Notice: Before signing any loan documents or otherwise
5 committing to a loan, please read our terms and conditions
6 carefully.

7 4. A licensee who fails to provide disclosures as required
8 under this section shall be subject to a civil penalty not to
9 exceed three hundred dollars for each violation.

10 Sec. 21. NEW SECTION. 536B.21 **Finance charge.**

11 1. A licensee may charge a finance charge on a small dollar
12 installment loan at a rate not to exceed twenty percent of the
13 first five hundred dollars loaned, plus seven and one-half
14 percent of any amount in excess of five hundred dollars loaned.
15 The finance charge shall be deemed fully earned as of the date
16 of the small dollar installment loan transaction and shall not
17 be refundable or prorated in the event of prepayment.

18 2. This section does not authorize the compounding of a
19 finance charge.

20 Sec. 22. NEW SECTION. 536B.22 **Other fees and charges.**

21 1. In addition to a finance charge authorized under section
22 536B.21, a licensee may collect any of the following fees or
23 charges:

24 a. A monthly maintenance fee on each small dollar
25 installment loan at a rate not to exceed eleven dollars and
26 twenty-five cents per one hundred dollars loaned. Such fee
27 shall be refundable to the consumer on a pro rata basis upon
28 prepayment in full prior to the maturity date of the loan.

29 b. A delinquency charge if an installment is not paid in
30 full within seven days, equal to five percent of the amount of
31 the installment.

32 c. Court costs and reasonable attorney fees if the small
33 dollar installment loan is referred for collection to an
34 attorney other than an employee of the licensee.

35 d. A dishonored check service fee if a licensee receives

1 a check, draft, negotiable order of withdrawal, or similar
2 instrument that is not paid or is not honored by a depository
3 institution, equal to the actual charges assessed by the
4 depository institution.

5 2. A licensee shall not directly or indirectly charge,
6 contract for, or receive any other amount in connection with
7 a small dollar installment loan except as provided in this
8 chapter.

9 EXPLANATION

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

12 This bill creates new Code chapter 536B to require licensure
13 of persons who wish to provide small dollar installment loans
14 to residents of the state.

15 The bill defines "small dollar installment loan" to mean
16 a loan that is incurred for a personal, family, or household
17 purpose, is not less than \$500 and not more than \$1,000, is
18 unsecured, is held for a specified period, is payable in
19 biweekly, semimonthly, or monthly payment installments, is
20 subject to prepayment in whole or in part at any time without
21 penalty, and is for a term length of a minimum of six months and
22 a maximum of 12 months.

23 The bill exempts the following persons from the requirements
24 of the bill: a person who does business under any law relating
25 to banks, savings banks, trusts, savings and loan associations,
26 profit sharing and pension trusts, credit unions, insurance
27 companies, or receiverships, a person who is not regularly
28 engaged in the business of making small dollar installment
29 loans, as defined in the bill, a person who is licensed
30 pursuant to another Iowa Code chapter to the extent that
31 the person's activities are governed by that Code chapter,
32 or a consumer loan with a finance charge as permitted under
33 specified law.

34 The bill prohibits a person from operating a small dollar
35 installment loan business in the state unless the person is

1 physically located in the state and is licensed pursuant to
2 the bill. The bill requires an application for a license
3 to include an application fee of \$100 and a surety bond, as
4 described in the bill. The superintendent of banking shall
5 issue a license pursuant to the bill if the superintendent
6 finds all of the following: the experience, character, and
7 general fitness of the applicant is such as to warrant a
8 finding that the applicant will conduct the small dollar
9 installment loan business honestly, fairly, and efficiently;
10 the applicant has not been convicted of a felony; the
11 applicant is financially responsible; and the applicant has
12 unencumbered assets of at least \$25,000 available for operating
13 the business. The superintendent shall approve or deny an
14 application for a license by written order within 90 days of
15 filing.

16 The bill requires a license issued pursuant to the bill to be
17 conspicuously posted at the licensee's place of business. A
18 license is valid until the next succeeding January 1, unless
19 earlier suspended or revoked. The bill provides that a license
20 shall be renewed annually by filing a renewal application with
21 the superintendent on or before December 1. The superintendent
22 may assess a late fee of \$10 per day for a late renewal
23 application. The bill allows the superintendent to license
24 applicants through a nationwide licensing system and to use
25 such system as a channeling agent with the federal government.

26 The bill provides that a licensee may surrender a license by
27 delivering written notice to the superintendent. The surrender
28 shall not affect the licensee's criminal or civil liability
29 for acts committed prior to the surrender, the liability of
30 the surety bond, or payment of the annual license fee. The
31 superintendent may establish procedures for the disposition of
32 the surrendered licensee's books, accounts, and records and may
33 require any action necessary for the protection of outstanding
34 makers of checks.

35 The bill requires a licensee to notify the superintendent

1 in writing within 30 days upon any of the following: filing
2 for bankruptcy or reorganization; reorganization of the
3 business; commencement of license revocation or any other civil
4 or criminal proceedings by any other state or jurisdiction;
5 the filing of a criminal indictment or complaint against the
6 licensee or any other specified persons; or a felony conviction
7 against the licensee or any other specified persons.

8 The bill requires prior written approval of the
9 superintendent for the continued operation of a small dollar
10 installment loan business whenever a change in control
11 of a licensee is proposed, as described in the bill. The
12 person requesting such approval shall pay a \$100 fee to
13 the superintendent, as well as any costs incurred by the
14 superintendent in investigating a change in control request.
15 A license issued pursuant to the bill is not transferable or
16 assignable.

17 The bill provides that a licensee may operate a small dollar
18 installment loan business only at its designated principal
19 place of business, where the licensee shall maintain its books,
20 accounts, and records. A licensee may change the location of
21 its principal place of business with the prior written approval
22 of the superintendent. A licensee may establish branch offices
23 in the same county in which the principal place of business is
24 located, with the prior written approval of the superintendent.
25 A licensee shall notify the superintendent 30 days in advance
26 of a change in the name of the licensee. A licensee shall
27 pay a \$25 fee to the superintendent for a request to change
28 the location of a principal place of business, to establish a
29 branch office, or to provide notice of a name change.

30 The bill permits a licensee to operate a small dollar
31 installment loan business at a location where any other
32 business is operated with the written approval of the
33 superintendent, so long as the licensee's books, accounts, and
34 records are kept separate and apart from the other business,
35 and the other business is not of a type which would tend

1 to enable the concealment of acts engaged in to evade the
2 requirements of the bill.

3 The bill requires the superintendent to examine the books,
4 accounts, and records of each licensee at least once a year
5 and as needed to secure information required by the bill and
6 to determine whether any violations of the bill have occurred.
7 The licensee shall pay the cost of the examination. The
8 superintendent may also examine or investigate complaints or
9 reports concerning alleged violations of the bill, and may
10 order the actual cost of the examination or investigation as
11 specified in the bill be paid by the person subject to such
12 examination or investigation. Failure to pay the examination
13 or investigation fee within 30 days of receipt of demand shall
14 subject the licensee to a late fee of up to 5 percent of the
15 amount of the fee for each day the payment is delinquent.
16 The superintendent may disclose information to other state
17 or federal regulatory authorities and may receive documents,
18 materials, or other information through a nationwide licensing
19 system and from other regulatory agencies, as provided in the
20 bill.

21 The bill permits the superintendent to take disciplinary
22 action against a licensee, after notice and hearing, if the
23 superintendent finds any of the following: the licensee or any
24 other specified person has violated any provision of the bill,
25 any rule adopted by the superintendent, or any other applicable
26 state or federal law; the licensee has failed to pay a license
27 fee or to maintain in effect the required surety bond; a fact
28 or condition existing which would have resulted in the initial
29 denial of issuance of a license; the licensee has abandoned its
30 place of business for 60 days or more; or the licensee fails
31 to pay an administrative penalty or the cost of investigation
32 as ordered. The superintendent may impose one or more of the
33 following disciplinary actions against a licensee: revoke a
34 license; suspend a license; impose a period of probation under
35 specified conditions; impose civil or administrative penalties

1 in an amount not to exceed \$5,000 per violation; issue a
2 citation and warning; or order the licensee to pay restitution.
3 The superintendent may also order an emergency suspension of
4 a license as provided in the bill. The bill provides that a
5 license shall not be revoked or suspended except after notice
6 and a hearing.

7 The bill permits the superintendent to issue a cease and
8 desist order on any person the superintendent believes is
9 engaged in or is about to engage in a violation of the bill
10 or any rule or order issued by the superintendent. The
11 bill provides procedures for notice and hearing for the
12 issuance of a cease and desist order, as provided in the bill.
13 After notice and hearing, if so requested or ordered, the
14 superintendent shall affirm, vacate, or modify the order. The
15 superintendent may vacate or modify an order if conditions
16 which caused its entry have changed or if it is otherwise
17 in the public interest to do so. The bill also permits the
18 attorney general to initiate action in district court if it
19 appears a person has engaged in or will engage in a violation
20 of the bill, as provided in the bill.

21 The bill provides that a person who operates a small dollar
22 installment loan business in the state without first obtaining
23 a license or while such license is suspended or revoked is
24 guilty of a serious misdemeanor. A serious misdemeanor is
25 punishable by confinement for no more than one year and a fine
26 of at least \$315 but not more than \$1,875. In addition, the
27 superintendent may commence an action to enjoin the operation
28 of the business.

29 The bill provides that the revocation, suspension,
30 surrender, cancellation, or alteration of a license will not
31 impair or affect the validity of a preexisting small dollar
32 installment loan or the ability of a lender to service a
33 preexisting loan outside of this state.

34 The bill prohibits a licensee from advertising in any false
35 or misleading manner with regards to the rates or terms of

1 a small dollar installment loan and requires a licensee to
2 comply with the advertising requirements in the federal Truth
3 in Lending Act. A licensee cannot provide a small dollar
4 installment loan to a military member or dependent, as defined
5 in 10 U.S.C. §987(i), with an annual percentage rate greater
6 than that provided in 10 U.S.C. §987(b). Before a licensee
7 may provide a small dollar installment loan, the consumer must
8 sign a statement attesting to whether or not the consumer is a
9 military member or dependent. A loan made in violation of 10
10 U.S.C. §987 is void and its terms and conditions unenforceable.

11 The bill requires a licensee to comply with the disclosure
12 requirements in the federal Truth in Lending Act. A licensee
13 must display a disclosure sign, as described in the bill, at
14 each desk in the licensed office and each licensed branch
15 office and on the licensee's internet site if the licensee
16 provides electronic small dollar installment loans. A licensee
17 who fails to do so is subject to a civil penalty not to exceed
18 \$300 for each violation.

19 The bill allows a licensee to charge a finance charge, as
20 defined in the bill, on a small dollar installment loan at
21 a rate not to exceed 20 percent of the first \$500 loaned,
22 plus 7.5 percent of any amount in excess of \$500 loaned. The
23 finance charge shall be deemed fully earned as of the date of
24 the loan transaction and shall not be refundable or prorated
25 in the event of prepayment. A licensee is not permitted to
26 compound a finance charge. In addition to a finance charge, a
27 licensee may collect a monthly maintenance fee, a delinquency
28 charge, court costs and reasonable attorney fees, and a
29 dishonored check service fee, as described in the bill. A
30 licensee is prohibited from collecting any other charges or
31 fees in connection with conducting small dollar installment
32 loan transactions.