

**CHAPTER 124**  
**REAL PROPERTY LOANS AND MORTGAGES**  
*S.F. 223*

**AN ACT** relating to real property loans by increasing the principal amount of the bonds and notes which may be issued by the Iowa housing finance authority under the Iowa small business loan program, creating residential mortgage marketing and interest reduction programs, and authorizing loan processing fees, and payment reduction fees.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 220.1, subsection 28, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The authority may, by resolution, waive any or all of the requirements of paragraph b in connection with a loan to a small business, as defined under applicable federal law and regulations that have been enacted or adopted by April 1, 1983, in which federal assistance, insurance or guaranties are sought.

Sec. 2. Section 220.1, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 29.** "Mortgage-backed security" means a security issued by the authority which is secured by residential mortgage loans owned by the authority.

**NEW SUBSECTION. 30.** "Residential mortgage interest reduction program" means the program for buying-down interest rates on residential mortgage loans pursuant to sections 220.81 through 220.84.

**NEW SUBSECTION. 31.** "Residential mortgage loan" means a financial obligation secured by a mortgage on a single-family or two-family home.

**NEW SUBSECTION. 32.** "Residential mortgage marketing program" means the program for buying and selling residential mortgage loans and the selling of mortgage-backed securities pursuant to sections 220.71 through 220.73.

Sec. 3. Section 220.10, subsection 1, Code 1983, is amended to read as follows:

1. All moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority, or to accumulate necessary operating or loss reserves, shall be used by the authority to pay administrative expenses of or provide loans to the Iowa family farm development authority in connection with the programs authorized in the Iowa family farm development Act, or to provide grants, subsidies, and services to lower income families and very low income families through any of the programs authorized in this chapter, or to provide funds for the residential mortgage interest reduction program established pursuant to section 220.81.

Sec. 4. Section 220.26, subsection 1, Code 1983, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of five hundred million dollars plus a total of fifty million dollars for property improvement loans to

finance solar and other renewable energy systems in housing as authorized by section 220.37 and to finance loans to provide solar and other renewable energy systems for and to increase the energy efficiency of small businesses under the Iowa small business loan program. Fifty One hundred million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program established under sections 220.61 to 220.65. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

Sec. 5. Section 220.51, subsection 4, Code 1983, is amended to read as follows:

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.17, subsection 9 and section 175.19 220.28, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

Sec. 6. Section 220.62, subsection 1, Code 1983, is amended to read as follows:

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which shall be used to make program loans. The principal amount of bonds and notes are that may be issued pursuant to the loan program and the principal amount of the bonds and notes issued which shall be counted as a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to are as provided in section 220.26, subsection 1. The principal amount of bonds and notes issued pursuant to the loan program shall not exceed fifty million dollars. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

Sec. 7. NEW SECTION. 220.71 RESIDENTIAL MORTGAGE MARKETING PROGRAM. The authority shall establish a program to assist lenders to sell residential mortgage loans in the organized and unorganized secondary mortgage market. The authority may issue taxable and tax-exempt bonds and notes. The proceeds of the bonds shall be used to purchase residential mortgage loans from lenders. The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 220.26, subsection 1. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

Sec. 8. NEW SECTION. 220.72 POWERS.

1. The authority may purchase, and make advance commitments to purchase, residential mortgage loans from mortgage lenders at prices and upon terms and conditions it determines subject to this section. However, the total purchase price for all residential mortgage loans which the authority commits to purchase from a mortgage lender at any one time shall not exceed the total of the unpaid principal balances of the residential mortgage loans purchased. Mortgage lenders are authorized to sell residential mortgage loans to the authority in accordance with this section and the rules of the authority. The authority may charge a mortgage lender a commitment fee or other fees as set by rule as a condition for the authority purchasing residential mortgage loans.

2. The authority may sell or make advanced commitments to sell residential mortgage loans in the organized or unorganized secondary mortgage market. The authority may issue and sell securities that are secured by residential mortgage loans held by the authority. The authority may aggregate the residential mortgage loans sold in the secondary market or used as security on the mortgage-backed securities. The amount of mortgage-backed securities sold shall not exceed principal of the mortgages retained by the authority as security.

3. The authority may require as a condition of purchase of a residential mortgage loan from a mortgage lender that the mortgage lender represent and warrant to the authority that:

a. The unpaid principal balance of the residential mortgage loan and the interest rate on it have been accurately stated to the authority.

b. The amount of the unpaid principal balance is justly due and owing.

c. The mortgage lender has no notice of the existence of a counterclaim, offset, or defense asserted by the mortgagor or the mortgagor's successor in interest.

d. The residential mortgage loan is evidenced by a bond or promissory note and a mortgage which has been properly recorded with the appropriate public official.

e. The mortgage constitutes a valid first lien on the real property described in the mortgage to the authority subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements on it.

f. The mortgagor is not now in default in the payment of an installment of principal or interest, escrow funds, real property taxes, or otherwise in the performance of obligations under the mortgage documents and has not to the knowledge of the mortgage lender been in default in the performance of an obligation under the mortgage for a period of longer than sixty days during the life of the mortgage.

g. The improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized to issue policies in this state and providing fire and extended coverage in amounts as the authority prescribes by rule.

h. The residential mortgage loan meets the prevailing investment quality standards for residential mortgage loans in this state.

Sec. 9. NEW SECTION. 220.73 RULES. The authority shall adopt rules pursuant to chapter 17A relating to the purchase and sale of residential mortgage loans and the sale of mortgage-backed securities. The rules shall provide at least for the following:

1. Procedures for the submission by mortgage lenders to the authority of offers to sell mortgage loans.

2. Standards for allocating bond proceeds among mortgage lenders offering to sell mortgage loans to the authority.

3. Standards for determining the aggregate principal amount of mortgage loans to be purchased from each mortgage lender and the purchase price.

4. Schedules of fees and charges to be imposed by the authority.

5. Procedures for issuing mortgage-backed securities.

Sec. 10. NEW SECTION. 220.81 RESIDENTIAL MORTGAGE INTEREST REDUCTION PROGRAM.

1. The authority shall initiate a residential mortgage interest reduction program to reduce the interest costs on groups of mortgage loans. The authority shall use the money specially appropriated to operate this program, and the authority may use moneys declared to be surplus as provided in section 220.10, subsection 1, or moneys obtained from grants, gifts, bequests, contributions, and other uncommitted funds to operate this program.

2. Each mortgage loan included in this program shall be for the purpose of acquiring a single-family dwelling to be occupied by the owner of that dwelling, or a two-family dwelling where the owner will occupy one of the units. The authority shall adopt rules establishing the maximum purchase prices for both single-family dwellings and two-family dwellings in order to be included in a particular group of mortgages. These maximum purchase prices shall not exceed the maximum prices established by section 103A, Internal Revenue Code of 1954. These rules shall only apply to mortgages financed from the sale of tax-exempt bonds.

3. The interest reduction established by the authority for a group of loans shall meet the requirements of this subsection. The interest rate of a loan shall be reduced for a period not to exceed five years. The interest rate of a loan during the first year shall be reduced by not less than three percent and not more than five percent. The amount of the reduction in the interest rate of the loan in each subsequent year of the reduction period, if there are any subsequent years, shall be equal to the percent reduction in the first year multiplied times a fraction which has as its denominator the total number of years of the interest reduction period and has as its numerator the number of years remaining in the interest reduction period at the beginning of the subsequent year. For purposes of this subsection the first year of the interest reduction period starts on the date the loan is closed and ends eleven months after the date of the first monthly payment.

4. The authority shall implement this program by allocating a specified amount of money to reduce the interest rate on some or all of the mortgage loans purchased. The authority shall pay for the interest reduction on a group of loans to mortgage lenders, mortgage purchasers, or investors at the same time that it purchases that group of loans. For each bond issue using this program the authority shall establish the interest rate reductions it will purchase, the amount the authority will pay for the interest rate reductions, and the method of determining which of the eligible loans will be reduced.

Sec. 11. NEW SECTION. 220.82 LIEN. The authority shall file a lien on the property for which an interest reduction payment is made in the amount of the payment. The lien shall be filed in the recorder's office of the county in which the property is located.

Sec. 12. NEW SECTION. 220.83 RECAPTURE OF INTEREST REDUCTION PAYMENT.

1. A mortgagor shall repay the authority the lesser of the amount of interest reduction payment actually paid by the authority on behalf of the mortgagor or fifty percent of the net appreciation of the property. The term "net appreciation of the property" as used in this section means an increase in the value of the property over the purchase price less the reasonable costs of sale and the reasonable costs of improvements made to the property.

2. Repayment shall be made when any of the following occur:

a. The mortgagor sells or otherwise transfers the property. However, repayment is not required if the transfer is to the surviving spouse of the mortgagor upon the mortgagor's death.

b. The mortgagor rents the property for more than twelve months.

c. The mortgagor requests the authority to release the lien on the property.

d. The mortgage lender files a court action to foreclose on the mortgage. However, the authority may abate payment pending the outcome of the foreclosure action.

Sec. 13. NEW SECTION. 220.84 RULES. The authority shall adopt rules pursuant to chapter 17A for the administration of the residential mortgage interest reduction program. The rules shall include, but are not limited to, the following:

1. Standards for eligibility of a mortgagor including a minimum down payment or interest in the property.

2. Standards for the eligibility of the property.

3. Procedures for application to participate in the program.

4. Procedures for payment of the interest reduction payment to the mortgage lender or mortgage investor.

5. Standards for determining the amount of interest reduction that will be approved.

6. Schedules of fees and charges to be imposed by the authority.

Sec. 14. Section 524.901, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. The total amount of the bonds or securities of any one issuer or obligor, other than revenue or improvement bonds issued by a municipality, the Iowa housing finance authority, or the Iowa family farm development authority and subjected to separate investment limits under paragraphs "b", "c", "d", or "f", or "g" of this subsection, shall not exceed twenty percent of the capital and surplus of the state bank.

Sec. 15. Section 524.901, subsection 2, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. g. The total amount of bonds or notes issued by the Iowa housing finance authority pursuant to chapter 220 which have been issued on behalf of any one small business as defined in section 220.1, subsection 28, or any one group home referred to in section 220.1, subsection 11, paragraph a, and the proceeds of which have been loaned to that small business or group home shall not exceed twenty percent of the capital and surplus of the bank.

Sec. 16. Section 524.905, Code 1983, is amended by adding the following new subsection as subsection 5:

NEW SUBSECTION. 5. If the bank obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title of real property, the unmarketability of the title to real property, or the invalidity or unenforceability of liens or encumbrances upon real property, the bank shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

Sec. 17. Section 533.16, subsection 4, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Section 524.905, subsection 5, applies to the credit union in the same manner as if the credit union is a bank within the meaning of that provision.

Sec. 18. Section 534.80, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Section 524.905, subsection 5, applies to the association in the same manner as if the association is a bank within the meaning of that provision.

Sec. 19. Section 535.8, subsection 2, paragraph a, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

a. A lender may collect, in connection with a loan made pursuant to a written agreement executed by the borrower on or after the effective date of this Act, or in connection with a loan made pursuant to a written commitment by the lender mailed or delivered to the borrower on or after that date, a loan processing fee which does not exceed two percent of an amount which is equal to the loan principal; except that to the extent of an assumption by a new borrower of the obligation to make payments under a prior loan, or to the extent that the loan principal is used to refinance a prior loan between the same borrower and the same lender, the lender may collect a loan processing fee which does not exceed an amount which is a reasonable estimate of the expenses of processing the loan assumption or refinancing but which does not exceed one percent of the unpaid balance of the loan that is assumed or refinanced. In addition, a lender may collect from a borrower, a seller of property, another lender, or any other person, or from any combination of these persons, in contemplation of or in connection with a loan, a commitment fee, closing fee, or both, that is agreed to in writing by the lender and the persons from whom the charges are to be collected. A loan fee collected under this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan fee collected under this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. The collection in connection with a loan of a loan origination fee, closing fee, commitment fee, or similar charge is prohibited other than expressly authorized by this paragraph or a payment reduction fee authorized by subsection 6.

Sec. 20. Section 535.8, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 6.** A lender who offers to make a loan with only those fees authorized by subsection 2 may also offer in exchange for the payment of an interest reduction fee to make a loan on all of the same terms except at a lower interest rate and with the lower payments resulting from the lower interest rate. Prior to accepting an application for a loan which includes a payment reduction fee, the lender shall provide the potential borrower with a written disclosure describing in plain language the specific terms which the loan would have both with the payment reduction fee and without it. This disclosure shall include a good faith example showing the amount of the payment reduction fee and the reduction in payments which would result from the payment of this fee in a typical loan transaction. A payment reduction fee which complies with this subsection may be collected in connection with a loan in addition to the fees authorized by subsection 2.

Sec. 21. Section 536A.20, Code 1983, is amended to read as follows:

**536A.20 REAL ESTATE LOANS.**

1. A licensed industrial loan company may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the auditor under chapter 17A. These rules shall contain provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

2. A licensed industrial loan company may include in the loan documents signed by the borrower a provision requiring the borrower to pay the company each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the company in order to better secure the loan require and establish escrow accounts in connection with subsection 3. The company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A company receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the lowest rate the company pays to holders of thrift certificates issued by the company. If the company does not issue thrift certificates as defined in section 536B.2, the company shall pay an interest rate which represents the average of the lowest rates paid on thrift certificates by companies required to be members of the industrial loan thrift guaranty corporation under chapter 536B. This rate shall be determined by the auditor of state as of December 31 and June 30 of each year, and the auditor of state shall cause the rate to be published in the Iowa administrative bulletin within twenty days following the date of determination. The rate so determined shall apply from the date of publication of the rate and until a different rate is published. A company which maintains an escrow account in connection with a loan authorized by this section, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

Sec. 22. Section 536A.20, Code 1983, is amended by adding the following new subsection as subsection 3:

**NEW SUBSECTION. 3.** A licensed industrial loan company may act as an escrow agent with respect to real property that is mortgaged to the licensed industrial loan company, and may receive funds and make disbursements from escrowed funds in that capacity. The licensed industrial loan company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A licensed industrial loan company which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:

1. The name and address of the mortgagee.
2. The name and address of the mortgagor.
3. A summary of escrow account activity during the year as follows:
  - a. The balance of the escrow account at the beginning of the year.
  - b. The aggregate amount of deposits to the escrow account during the year.
  - c. The aggregate amount of withdrawals from the escrow account for each of the following categories:
    - (1) Payments against loan principal.
    - (2) Payments against interest.
    - (3) Payments against real estate taxes.
    - (4) Payments for real property insurance premiums.
    - (5) All other withdrawals.
  - d. The balance of the escrow account at the end of the year.
4. A summary of loan principal for the year as follows:
  - a. The amount of principal outstanding at the beginning of the year.
  - b. The aggregate amount of payments against principal during the year.
  - c. The amount of principal outstanding at the end of the year.

Sec. 23. Section 536A.20, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Section 524.905, subsection 5, applies to the licensed industrial loan company in the same manner as if the licensed industrial loan company is a bank within the meaning of that provision.

Sec. 24. Section 537.1301, subsection 14, paragraph a, subparagraph (5), Code 1983, is amended to read as follows:

(5) ~~Either the~~ The amount financed does not exceed twenty-five thousand dollars, ~~or the debt is secured by an interest in land.~~

Sec. 25. Section 537.1302, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** "Mortgage lender" means a domestic or foreign corporation authorized in this state to make loans secured by mortgages or deeds of trust.

Sec. 26. Section 537.2401, subsection 1, Code 1983, is amended to read as follows:

1. Except as provided with respect to a finance charge for loans pursuant to open end credit under section 537.2402, a lender may contract for and receive a finance charge not exceeding the maximum charge permitted by the laws of this state or of the United States for similar lenders, and, in addition, with respect to a consumer loan, a supervised financial organization or a mortgage lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding twenty-one percent per year on the unpaid balance of the

amount financed. This subsection does not prohibit a lender from contracting for and receiving a finance charge exceeding twenty-one percent per year on the unpaid balance of the amount financed on consumer loans if authorized by other provisions of the law.

Approved May 13, 1983

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**CHAPTER 125**  
**MOTOR VEHICLE CODE AMENDMENTS**  
*S.F. 493*

**AN ACT** relating to the motor vehicle code by providing a rebuttable presumption of residency, by increasing the penalty for improper use of a registration card, registration plate, special plate, or permit, by requiring a motor vehicle overtaking another vehicle on the left to return to the right-hand portion of the roadway before coming within three hundred feet of an approaching vehicle, by prohibiting the operation of motor vehicles with excessively dark windshields or windows, by clarifying certain language and eliminating certain inconsistent language in the motor vehicle code, by increasing the ability of an officer to issue a uniform citation and complaint, and providing a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 321.1A PRESUMPTION OF RESIDENCY.** For purposes of this chapter there is a rebuttable presumption that a natural person is a resident of this state if any of the following elements exist:

1. The person has filed for a homestead tax exemption on property in this state.
2. The person is a veteran who has filed for a military tax exemption on property in this state.
3. The person is registered to vote in this state.
4. The person enrolls the person's child to be educated in a public elementary or secondary school in this state.
5. The person is receiving public assistance from this state.
6. The person resides or has continuously remained in this state for a period exceeding thirty days except for infrequent or brief absences.
7. The person has accepted employment or engages in any trade, profession, or occupation within this state, except as provided in section 321.55.

"Resident" does not include a person who is attending a college or university in this state, if the person has a domicile in another state and has a valid operator's license and vehicle registration issued by the state of domicile. "Resident" also does not include members of the armed forces that are stationed in Iowa, providing that their vehicles are properly registered in their state of residency.

A corporation, association, partnership, company, firm, or other aggregation of individuals whose principal place of business is located within this state is a resident of this state.

Sec. 2. Section 321.99, Code 1983, is amended to read as follows: