

**CHAPTER 158****CHATTEL LOANS***H.F. 556*

AN ACT relating to chattel loans by providing a short title to chapter 536, increasing the maximum amount of a regulated loan from two thousand to twenty-five thousand dollars, permitting a licensee to sell property insurance to borrowers on property owned by the borrowers, modifying the penalty if a licensee charges excessive interest or other charges, and modifying a requirement that an applicant for a loan shall report other installment loans that the applicant may have.

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

Section 1. Section 533A.2, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. Banks, savings and loan associations, insurance companies and similar fiduciaries, ~~chattel regulated loan companies licensed under chapter 536 and industrial loan companies licensed under chapter 536A, as duly licensed in Iowa by law,~~ authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.

Sec. 2. Section 536.1, Code 1985, is amended to read as follows:

536.1 TITLE - LICENSE AND RIGHTS THEREUNDER - FACE-TO-FACE SOLICITATION REQUIRED.

1. This chapter may be referred to as the "Iowa Regulated Loan Act".

2. With respect to a loan other than a consumer loan, ~~no a person, copartnership, association, or corporation shall not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of two twenty-five thousand dollars or less and charge, contract for, or receive on any such the loan a greater rate of interest or consideration therefor for the loan than the lender would be permitted by law to charge if the lender were not a licensee hereunder under this chapter except as authorized by this chapter and without first obtaining a license from the superintendent of banking, hereinafter called the superintendent.~~

3. With respect to a consumer loan, a person required by section 537.2301 to have a license shall not engage in the business of making loans of money, credit, goods or things in action in the amount or value of ~~two twenty-five thousand dollars or less and charge, contract for, or receive on any such the loan a greater rate of interest or consideration therefor for the loan~~ than the lender would be permitted by law to charge if the lender were not a licensee ~~hereunder under this chapter,~~ except as authorized by this chapter and without first obtaining a license from the superintendent.

4. A person who enters into less than ten supervised loans per year in this state and who neither has an office physically located in this state nor engages in face-to-face solicitation in this state may contract for and receive the rate of interest permitted in this chapter for licensees ~~hereunder under this chapter.~~ A "consumer loan" ~~shall be means the same as~~ defined in section 537.1301.

Sec. 3. Section 536.10, unnumbered paragraph 3, Code 1985, is amended to read as follows:

Every ~~A~~ licensee subject to examination, supervision and regulation by the superintendent, shall pay to the superintendent an examination fee, based on the actual cost of the operation of the small regulated loan division of the department of banking, and the proportionate share of administrative expenses in the operation of the department of banking attributable to the small regulated loan division as determined by the superintendent of banking. ~~Such~~ The fee shall apply equally to all licenses and shall not be changed more frequently than annually and when changed, shall be effective on January 1 of the year following the year in which the change is approved.

Sec. 4. Section 536.13, Code 1985, is amended to read as follows:

536.13 BANKING BOARD – REPORT – ADDITIONAL RESTRICTIONS.

1. ~~It shall be the duty of the~~ The state banking board, hereinafter called the board, and it shall have power, jurisdiction, and authority, from time to time to may investigate the conditions and find the facts with reference to the business of making small regulated loans, as described in section 536.1, hereinafter referred to as small loans, and after making ~~such~~ the investigation, report in writing ~~their~~ its findings to the next regular session of the general assembly, and upon the basis of ~~such~~ the facts:

a. ~~To classify small~~ Classify regulated loans by a regulation according to ~~such~~ a system of differentiation as which will reasonably distinguish ~~such~~ the classes of loans for the purposes of this chapter, and.

b. ~~To determine~~ Determine and fix by a regulation ~~such~~ rule the maximum rate of interest or charges upon each ~~such~~ class of small regulated loans as which will induce efficiently managed commercial capital to enter ~~such~~ the business in sufficient amounts to make available adequate credit facilities to individuals ~~without the security or financial responsibility usually required by banks~~. ~~Such~~ The maximum rate of interest or charge shall be stated by the board as an annual percentage rate calculated according to the actuarial method and applied to the unpaid balances of the amount financed.

2. ~~The~~ Except as provided in subsection 7, the board may from time to time, commencing March 1, 1935, redetermine and refix by a regulation rule, in accordance with subsection 1 above, any maximum rate of interest or charges previously fixed by it, but ~~such~~ the changed maximum rates shall not affect pre-existing loan contracts lawfully entered into between any a licensee and any a borrower; ~~all regulations~~. All rules which the board may make respecting rates of interest or charges shall ~~fix and contain~~ state the effective date thereof of the rules, which shall not be earlier than thirty days after notice to each licensee by mailing ~~such~~ the notice to each licensed place of business.

3. Before fixing any classification of small regulated loans or any maximum rate of interest or charges, or changing any ~~such~~ a classification or rate under authority of this section, the board shall give reasonable notice of its intention to consider doing so to all licensees and a reasonable opportunity to be heard ~~thereon~~ and to introduce evidence with respect ~~thereto~~ to the change or classification.

4. Beginning July 4, 1965, and until such time as a different rate is fixed by the board, the maximum rate of interest or charges upon ~~such~~ the class or classes of small regulated loans shall be is three percent per month on any part of the unpaid principal balance of the loan not exceeding one hundred fifty dollars and two percent per month on any part of the loan in excess of one hundred fifty dollars, but not exceeding three hundred dollars, and one and one-half percent per month on any part of the unpaid principal balance of the loan in excess of three hundred dollars, but not exceeding seven hundred dollars, and one percent per month on any part of the unpaid principal balance of the loan in excess of seven hundred dollars.

5. Every A licensee hereunder under this chapter may lend any sum of money not exceeding two twenty-five thousand dollars in amount and may charge, contract for, and receive thereon on the loan interest or charges at a rate not exceeding the maximum rate of interest or charges determined and fixed by the board under authority of this section or by the provisions of the preceding subsection 4 or pursuant to subsection 7 for those amounts in excess of ten thousand dollars.

6. The following provision shall apply to all loans including consumer loans made by a licensee hereunder: If any interest or charge on a loan regulated by this chapter in excess of those permitted by this chapter are is charged, contracted for, or received, the contract of loan shall be is void as to interest and charges and the licensee shall have has no right to collect or receive any principal, interest or charges whatsoever. In addition, the licensee shall forfeit the right to collect the lesser of two thousand dollars of principal of the loan or the total amount of the principal of the loan.

7. The board may establish the maximum rate of interest or charges as permitted under this chapter for those loans whose unpaid principal balance is ten thousand dollars or less. For those loans whose unpaid principal balance is over ten thousand dollars, the maximum rate of interest or charges which a licensee may charge shall be the greater of the rate permitted by chapter 535 or the rate authorized for supervised financial organizations by chapter 537.

The provisions of the Iowa consumer credit code shall apply, chapter 537, applies to a consumer loan in which the licensee participates or engages, and any a violation of the Iowa consumer credit code shall be is a violation of this chapter.

Article 2, parts 3, 5 and 6 of chapter 537, and article 3 of chapter 537, sections 537.3203, 537.3206, 537.3209, 537.3304, 537.3305 and 537.3306 shall apply to any credit transaction, as defined in section 537.1301 in which a licensee participates or engages, and any violation of those parts or sections shall be is a violation of this chapter. For the purpose of applying the provisions of the Iowa consumer credit code to those credit transactions, "consumer loan" shall include includes a loan for a business purpose.

A provision of the Iowa consumer credit code applicable to loans regulated by this chapter shall supersede supersedes a conflicting provision of this chapter.

Sec. 5. Section 536.15, Code 1985, is amended to read as follows:

#### 536.15 USURY — LIMITATION ON PRINCIPAL LOAN.

No A licensee shall not directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if the lender were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than two twenty-five thousand dollars. The foregoing prohibition shall This section also apply applies to any a licensee who permits any a person, as borrower or as endorser, guarantor, or surety for any a borrower, or otherwise, to owe directly or contingently or both to the licensee at any time the sum of more than two twenty-five thousand dollars for principal.

Sec. 6. Section 536.25, Code 1985, is amended to read as follows:

#### 536.25 STATEMENT OF OTHER LOANS BY BORROWER.

Every A licensee when making a loan hereunder under this chapter shall require a statement in writing from each applicant setting forth a description of all installment indebtedness of such the applicant by giving the amount of each such loan and the name of the lender. The applicant may orally disclose the information and the licensee shall write down the information, and the applicant shall subsequently sign the statement.

Sec. 7. Section 536.26, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~No~~ A licensee shall not, directly or indirectly, sell or offer for sale any life, or accident and health insurance in connection with ~~any~~ a loan made under this chapter except as and to the extent authorized by this section. Life, accident and health insurance, or any of them, may be written by a licensed insurance agent upon or in connection with any loan for a term not extending beyond the final maturity date of the loan contract but only upon one obligor on any one loan contract.

Sec. 8. Section 536.28, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 3. "Board" means the state banking board.

NEW SUBSECTION. 4. "Consumer loan" means a loan as defined in section 537.1301.

NEW SUBSECTION. 5. "Superintendent" means the state superintendent of banking.

Sec. 9. NEW SECTION. 536.30 INSURANCE RELATED TO PROPERTY OF BORROWER.

A licensee may sell the borrower insurance against loss of or damage to property owned by the borrower or loss from liability arising out of the ownership or use of property owned by the borrower. When the transaction is a consumer credit transaction as defined in section 537.1301 the sale of property insurance is subject to the requirements of sections 537.2501 and 537.2510 and the rules adopted under those sections by the administrator of the Iowa consumer credit code.

Sec. 10. Section 536A.5, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

536A.5 EXEMPTIONS.

This chapter does not apply to any of the following:

1. Businesses organized or operating as permitted under the authority of a law of this state or the United States relating to banks, trust companies, building and loan associations, savings and loan associations, insurance companies, regulated loan companies organized under chapter 536, or credit unions.
2. Persons that make loans only on notes secured by first mortgages on real estate.
3. Licensed real estate brokers or salespersons.
4. A person engaged exclusively in the business of purchasing commodity financing or commercial paper.
5. A pawnbroker.
6. A person engaged in the mercantile business.
7. Loans made to a domestic or foreign corporation.

Approved May 20, 1985