

CHAPTER 256**HOMESTEAD TAX CREDIT***H.F. 777*

AN ACT relating to the length of occupancy of the homestead for purposes of the homestead credit and providing an effective date.

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

Section 1. Section 425.2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years, and the owner of the property being claimed a homestead declares residency in Iowa for purposes of income taxation, and is occupied by the person or person's spouse for at least six months in each of those years. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to refile for the credit. Property divided pursuant to chapter 598 cannot be modified following the division of the property. An owner who ceases to use a property for a homestead or intends not to use it as a homestead for at least six months in a fiscal year shall provide written notice to the assessor by July 1 following the date on which the use is changed. A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

Sec. 2. Section 425.11, subsection 1, paragraph a, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The homestead must embrace the dwelling house which the owner, in good faith, is occupying as a home on July 1 of the year for which the credit is claimed and occupies as a home for at least six months during that year, except as herein provided.

Sec. 3. This Act takes effect January 1 following enactment for homestead credits allowed for fiscal years beginning on or after the effective date.

Approved May 29, 1989

CHAPTER 257**BANKING AND REGULATED LOANS***H.F. 234*

AN ACT relating to entities and subject matter regulated by the department of commerce, division of banking, including banks, regulated loans, and industrial loan companies.

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

Section 1. Section 523A.2, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. All funds held in trust under section 523A.1 shall be deposited in a state or federally insured bank, savings and loan association, or credit union authorized to conduct business in this state, or trust department thereof, or in a trust company authorized to conduct business in this state,

within thirty days after the receipt of the funds and shall be held in a separate account or in one common trust fund under a trust agreement in the name of the depositor in trust for the designated beneficiary until released pursuant to section 523A.1.

Sec. 2. Section 524.103, subsection 5, Code 1989, is amended to read as follows:

5. "Bank" means ~~any person~~ a corporation engaged in the business of banking, authorized by law to receive deposits and ~~subject to supervision by banking authorities of the United States or of any state whose deposits are insured by the federal deposit insurance corporation.~~

Sec. 3. Section 524.103, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 28. "Trust company" means a business organization which is authorized to engage in trust business pursuant to section 524.1005. A bank lawfully granted trust powers under the laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.

Sec. 4. Section 524.107, subsection 2, Code 1989, is amended to read as follows:

2. ~~No~~ A person doing business in this state shall ~~not~~ use the words "bank" or "trust" or use any derivative, plural, or compound of the words "bank", "banking", "bankers", or "trust" in any manner which would tend to create the impression that ~~such the~~ person is authorized to engage in the business of banking or to act in a fiduciary capacity, ~~except a state bank authorized to do so by the provisions of this chapter, or a national bank to the extent permitted by the laws of the United States, or, insofar as the word "bank" is concerned, a private bank to the extent provided for and limited by sections 524.1701 and 524.1702, a state association pursuant to section 534.507, or a federal association to the extent permitted by the laws of the United States, or, insofar as the word "trust" is concerned, an individual permissibly serving as a fiduciary in this state, pursuant to section 633.63, or, insofar as the words "trust" and "bank" are concerned, a nonresident corporate fiduciary permissibly serving as a fiduciary in this state pursuant to section 633.64.~~

Sec. 5. Section 524.217, subsections 1, 2, 4, 5, and 7, Code 1989, are amended to read as follows:

1. The superintendent shall have power to make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each eighteen-month period. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe. The superintendent shall also have power to make or cause to be made such limited examinations at such times and with such frequency as the superintendent may deem necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of this chapter.

2. The superintendent shall have power to make or cause to be made an examination of any corporation in which the state bank or trust company owns shares except corporations described in paragraphs "a" and "b" of subsection 3 of section 524.901. The superintendent shall also have power, upon application to and order of the district court of Polk county, to make or cause to be made an examination of any person having business transactions or a relationship with any state bank or trust company when such an examination is deemed necessary and advisable in order to determine whether the capital of the state bank or trust company is impaired or whether the safety of its deposits has been imperiled. The fee for any such examination shall be paid by the state bank or trust company.

4. The superintendent may furnish to the federal deposit insurance corporation and the federal reserve system, the office of the comptroller of the currency, federal home loan bank board, national credit union administration, and financial institution regulatory authorities of other states, or to any official or supervising examiner thereof, a copy of the report of any or all

examinations made of any state bank and of any affiliate of a state bank when the state bank is a member of the federal reserve system or to the federal deposit insurance corporation when the deposits of the state bank are insured by the federal deposit insurance corporation.

5. A copy of the report of each examination of a state bank or trust company shall be transmitted by the superintendent to the board of directors of the state bank or trust company except to the extent that the report of any such examination may be confidential to the superintendent, and each member of the board of directors shall furnish to the superintendent, on forms to be supplied by the superintendent, a statement that the member has read the report of examination.

7. The report of examination of any affiliate or of any person examined as provided for in subsection 2 of this section shall not be transmitted by the superintendent to any such affiliate or person or to any state bank or trust company or to the board of directors of any state bank or trust company unless authorized or requested by such affiliate or person.

Sec. 6. Section 524.225, Code 1989, is amended to read as follows:

524.225 JUDICIAL REVIEW.

Judicial review of the actions of the superintendent may be sought in accordance with the terms of the Iowa administrative procedure Act chapter 17A. However, contested case provisions of chapter 17A, the Iowa administrative procedure Act, do not apply to an action by the superintendent to take over the management of or to manage a state bank, as authorized by sections 524.224 and 524.226.

Sec. 7. Section 524.302, subsection 10, Code 1989, is amended to read as follows:

10. Any At the election of the incorporators or shareholders, a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for any breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for any transaction from which the director derives an improper personal benefit, or under subsections 1 and 2 of section 524.605, subsection 1 and 2. A provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 8. Section 524.302, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. The specific month in which the annual meeting of shareholders shall be held.

Sec. 9. Section 524.814, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. To secure participations sold to the federal agricultural mortgage corporation.

Sec. 10. Section 524.901, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Obligations issued by any or all of the federal land banks, any or all of the federal intermediate farm credit banks, any or all of the banks for co-operatives, and any or all of the federal home loan banks, organized under the laws of the United States.

Sec. 11. Section 524.901, subsection 1, paragraph f, Code 1989, is amended by striking the paragraph.

Sec. 12. Section 524.901, subsection 1, paragraph g, Code 1989, is amended by striking the paragraph.

Sec. 13. Section 524.901, subsection 3, paragraph c, Code 1989, is amended to read as follows:

c. When approved by the superintendent, shares and obligations of a corporation engaged solely in making loans for agricultural purposes eligible to discount or sell loans to a federal intermediate farm credit bank, commonly known as an agricultural credit corporation, in amounts not to exceed twenty percent of the capital and surplus of the state bank.

Sec. 14. Section 524.901, subsection 3, paragraph i, Code 1989, is amended to read as follows:

i. Shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States obligations or Iowa general obligations described in subsection 1 or repurchase agreements fully collateralized by obligations described in subsection 1 if delivery of the collateral is taken either directly or through an authorized custodian, up to a maximum of twenty percent of capital and surplus of the state bank in any one company, if the portfolio of such an investment company consists wholly of investments in which the state bank could invest directly without limitation pursuant to this section or trust.

Sec. 15. Section 524.901, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A state bank may invest without limitation for its own account in futures, forward, and standby contracts to purchase and sell any of the instruments eligible for state banks' purchase and sale, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with levels of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

Sec. 16. Section 524.904, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. Obligations secured by real property pursuant to section 524.905 and installment obligations made pursuant to section 524.906, except to the extent any such obligations are secured, guaranteed, insured or covered by unconditional commitments or agreements to purchase by the United States, veterans administration, federal housing administration, small business administration, farmers home administration, a federal reserve bank, or other department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States.

Sec. 17. Section 524.907, Code 1989, is amended to read as follows:

524.907 PARTICIPATIONS.

A state bank may purchase and may sell, subject to the provisions of sections 524.901, 524.904, and 524.905, and 524.906, and to such regulations as the superintendent may prescribe, participations in one or more evidences of indebtedness and agreements for the payment of money, and pools of bonds, securities, evidences of indebtedness and agreements for the payment of money.

Sec. 18. Section 524.1005, Code 1989, is amended to read as follows:

524.1005 TRUST COMPANIES OPERATING ON JANUARY 1, 1970.

1. A trust company existing and operating on January 1, 1970 and which was authorized to act only as a trust company may continue to act only in a fiduciary capacity according to the terms of its articles of incorporation. The articles of incorporation of the trust company may be renewed in perpetuity. When applicable, this chapter applies to the operations of the trust company. Section 524.107, subsection 2, regarding the use of the word "trust" does not apply to a trust company subject to this section.

2. Notwithstanding subsection 1, a trust company shall have the power to do all of the following:

a. Acquire and hold, or lease as lessee, such personal property as is used, or is to be used, in its operations.

b. Subject to the prior approval of the superintendent, acquire and hold, or lease as lessee, only such real property as is used, or is to be used, wholly or substantially, in its operations or acquired for future use.

c. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation engaged solely in holding and operating real property used wholly or substantially by the trust company in its operation or acquired for its future use.

d. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation organized to perform, or performing, functions or activities that may be performed by a trust company, including activities of a fiduciary, agency, or custodial nature, in the manner authorized by federal or state law, as long as the corporation is not a bank and does not make loans and investments or accept deposits other than the following permitted deposits:

(1) Deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law.

(2) Deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property; or for such owner or investor as agent or custodian of funds held for investment or as escrow agent; or for an issuer of, or broker or dealer in securities, in a capacity such as a paying agent, dividend disbursing agent, or securities clearing agent. However, such deposits shall not be employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account.

(3) Making call loans to securities dealers or purchasing money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. Such authorized loans and investments, however, shall not be used as a method of channeling funds to nontrust company affiliates of the trust company.

e. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation organized to perform, or performing, the collection of charges and premiums from, or adjusting and settling claims on, residents of this state and any other state where authorized or qualified to conduct such activity, in connection with life or health insurance coverage or annuities.

Sec. 19. Section 524.1102, subsection 1, Code 1989, is amended to read as follows:

1. In the case of any one such affiliate, ten percent of the capital and surplus of such the state bank. However, a state bank may invest its funds in shares of a bank service corporation pursuant to subsection* 524.803, subsection 1, paragraph f, in an amount up to twenty percent of the capital and surplus of the state bank.

Sec. 20. Section 524.1102, unnumbered paragraph 4, Code 1989, is amended to read as follows:

The provisions of this section shall not apply to loans or extensions of credit fully secured by obligations of the United States, or the ~~federal intermediate farm credit banks, or the federal land banks,~~ or the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a state bank on assets purchased from such bank.

Sec. 21. Section 524.1103, subsection 2, Code 1989, is amended to read as follows:

2. Engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation eligible to discount loans with a federal intermediate farm credit bank.

Sec. 22. Section 524.1103, subsection 3, Code 1989, is amended to read as follows:

3. Engaged solely in holding obligations of the United States, the federal intermediate farm credit banks, the federal land banks, the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest.

Sec. 23. Section 524.1201, Code 1989, is amended to read as follows:

524.1201 GENERAL PROVISIONS.

No A bank shall not open or maintain a branch bank. A state bank may establish and operate bank offices subject to approval and regulation of the superintendent and to the restrictions upon location and number imposed by section 524.1202. A bank office may furnish all banking services ordinarily furnished to customers and depositors at the principal place of business of the state bank which operates the office, and a bank office manager or an officer of the bank shall be physically present at each bank office during a majority of its business hours. The central executive and official business and principal record-keeping recordkeeping functions of a state bank shall be exercised only at its principal place of business, except

*Section probably intended

that data processing services referred to in section 524.804 may be performed for the state bank at some other point. All transactions of a bank office shall be immediately transmitted to the principal place of business of the state bank which operates the office, and no current ~~record-keeping~~ recordkeeping functions shall be maintained at a bank office except to the extent the state bank which operates the office deems it desirable to keep there duplicates of the records kept at the principal place of business of the state bank. Notwithstanding any of the provisions of this section, original trust recordkeeping functions may be centrally located at an authorized bank office. Original loan documentation recordkeeping functions may be located at an authorized bank office, subject to the approval of the superintendent.

Sec. 24. Section 524.1202, subsection 3, Code 1989, is amended to read as follows:

3. Notwithstanding subsection 1, if the assets of a state or national bank in existence on January 1, ~~1985~~ 1989, are transferred to a different state or national bank in the state which is located in the same county or a county contiguous to or cornering upon the county in which the principal place of business of the acquired bank is located, the resulting or acquiring bank may convert to and operate as its bank office any one or more of the business locations occupied as the principal place of business or as a bank office of the bank whose assets are so acquired. The limitations on bank office locations contained in unnumbered paragraph 1 of this section, and the limitation on the number of bank offices within the municipality or urban complex of the resulting or acquiring bank contained in subsection 2 shall be applicable to any bank office otherwise authorized by this subsection. A bank office established under the authority of this subsection is subject to the approval of the superintendent, shall be operated in accordance with this chapter relating to the operation of bank offices, and may be augmented by an integral facility when approved under subsection 2, paragraph "d".

Sec. 25. Section 524.1419, Code 1989, is amended to read as follows:

524.1419 OFFICES OF A RESULTING STATE BANK.

If a merger, consolidation or conversion results in a state bank subject to the provisions of this chapter, the resulting state bank shall, after the effective date of the merger, consolidation or conversion, be subject to all the provisions of sections 524.1201, 524.1202 and 524.1203 relating to the bank offices ~~and parking lot offices.~~

Sec. 26. Section 535.12, subsections 1 and 4, Code 1989, are amended to read as follows:

1. An agricultural credit corporation, as defined in subsection 4 ~~of this section~~, may lend money pursuant to a written promissory note or other writing evidencing the loan obligation, at a rate of interest which is not more than four percentage points above the lending rate in effect at the ~~federal intermediate farm credit bank~~ of Omaha, Nebraska, for the month during which the writing evidencing the loan obligation is made, provided that the loan is for an agricultural production purpose as defined in subsection 5 ~~of this section~~ and further provided that the loan would, but for this section, be subject to the maximum rate of interest prescribed by section 535.2, subsection 3, paragraph "a".

4. As used in this section, "agricultural credit corporation" means a corporation which has been designated by the ~~federal intermediate farm credit bank~~ of Omaha, Nebraska, as an agricultural credit corporation eligible to sell or discount loans to that bank pursuant to the ~~provisions of 12 United States Code, U.S.C. § 2074.~~

Sec. 27. Section 536.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Application for such license shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, of the place where the business of making loans under the provisions of this chapter is to be conducted and such further relevant information as the superintendent may require. Such applicant at the time of making such application shall pay to the superintendent the sum of fifty dollars if the liquid assets of the applicant are not

in excess of twenty thousand dollars, and the sum of one hundred dollars if the liquid assets of the applicant are in excess of twenty thousand dollars, as a fee for investigating the application and the additional sum of ~~seventy-five~~ one hundred twenty-five dollars if the liquid assets of the applicant are not in excess of twenty thousand dollars, and ~~one hundred fifty~~ two hundred fifty dollars if the liquid assets of the applicant are in excess of twenty thousand dollars, as an annual license fee.

Sec. 28. Section 536.16, subsection 1, Code 1989, is amended to read as follows:

1. Section 536.2 to the extent it requires payment of an annual license fee in excess of ~~ten~~ two hundred fifty dollars and requires a person to prove the person has any dollar amount of liquid assets or the use of any dollar amount in the conduct of the person's business at the licensed place of business.

Sec. 29. Section 536A.7, Code 1989, is amended to read as follows:

536A.7 APPLICATION FOR LICENSE.

Applications for licenses to engage in the business of operating industrial loan companies shall be in writing on such forms as may be prescribed by the ~~auditor~~ superintendent. The application shall give the name of the corporation, the location where the business is to be conducted, the street address of the place of business, the names and addresses of the officers and directors of the corporation and such other relevant information as the superintendent shall require. At the time of making such application the applicant shall pay to the superintendent the sum of fifty dollars to cover the cost of the investigation of the applicant. The applicant shall also pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the period ending December 31 next following the application; provided that if the license is granted after June 30 in any year, the license fee for the remainder of that year shall be ~~twenty-five~~ one hundred twenty-five dollars and any license fee paid by the applicant in excess of that amount shall be refunded by the ~~auditor~~ superintendent.

Sec. 30. Section 536A.30, subsection 1, Code 1989, is amended to read as follows:

1. Section 536A.7, to the extent it requires payment of an annual license fee in excess of ~~ten~~ two hundred fifty dollars.

Sec. 31. Section 554.9203, subsection 4, Code 1989, is amended to read as follows:

4. A transaction, although subject to this Article, is also subject to chapters 322, 534, 535, 536, 536A and ~~section 524.906~~, and the Iowa consumer credit code, where applicable, and in the case of conflict between the provisions of this Article and those statutes, the provisions of those statutes control. Failure to comply with any applicable statute has only the effect which is specified therein.

Sec. 32. Section 633.63, subsection 2, Code 1989, is amended to read as follows:

2. Banks and trust companies organized under the laws of the United States or state banks, when approved by the superintendent of banking under section 524.1001, and trust companies authorized to engage in trust business pursuant to section 524.1005, are authorized to act in a fiduciary capacity in Iowa.

Sec. 33. Section 524.906, Code 1989, is repealed.

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