

1990 Regular Session
Of The
Seventy-Third General Assembly
Of The
State Of Iowa

CHAPTER 1001
LINE-OF-CREDIT MORTGAGES
S.F. 255

AN ACT relating to the priority of advances under line-of-credit mortgages.

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

Section 1. Section 654.12A, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Subject to section 572.18, if a prior recorded mortgage contains the notice prescribed in this section and identifies the maximum credit available to the borrower, then loans and advances made under the mortgage, up to the maximum amount of credit together with interest thereon, are senior to indebtedness to other creditors under subsequently recorded mortgages and other subsequently recorded or filed liens even though the holder of the prior recorded mortgage has actual notice of indebtedness under a subsequently recorded mortgage or other subsequently recorded or filed lien. So long as credit is available to the borrower, payment of the outstanding mortgage balance to zero shall not extinguish the prior recorded mortgage if it contains the notice prescribed by this section. The notice prescribed by this section for the prior recorded mortgage is as follows:

Approved February 2, 1990

CHAPTER 1002
INTERSTATE BANKING AND COMMUNITY INVESTMENT
H.F. 685

AN ACT relating to banking and other depository institutions by establishing the procedures, terms, and conditions for the acquisition by an out-of-state regional bank holding company of an interest in a bank located in Iowa or in a bank holding company owning one or more banks located in Iowa, and imposing community reinvestment disclosure requirements, establishing certain enforcement procedures, making penalties applicable, providing penalties, and providing an effective date.

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

Section 1. Section 453.6A, Code 1989, is amended to read as follows:

453.6A ELIGIBILITY FOR STATE PUBLIC FUNDS – PROCEDURES.

1. Public funds of the state shall not be deposited in a financial institution which does not demonstrate a commitment to serve the needs of the local community in which it is chartered to do business, including the needs of neighborhoods, rural areas, and small businesses in communities served by the financial institution. These needs include credit services as well as deposit services.

2. In addition to establishing a minimum interest rate for public funds pursuant to section 453.6, the committee composed of the superintendent of banking, the auditor of state or a designee and the treasurer of state shall develop a list of financial institutions eligible to accept state public funds. The committee shall require that a financial institution seeking to qualify for the list shall annually provide the committee a written statement that the financial institution has a commitment to community reinvestment consistent with the safe and sound operation of a financial institution. The committee shall accept a certified copy of the annual community reinvestment report filed by the financial institution pursuant to the federal Community Reinvestment Act, 12 U.S.C. § 2901 et seq., in satisfaction of the written statement requirement under this subsection. To qualify for the list a financial institution must demonstrate a continuing commitment to meet the credit needs of the local community in which it is chartered.

3. The committee shall develop procedures to ensure that the financial institution's statement is available and accessible for examination by citizens. The committee may require a financial institution to provide public notice inviting the public to submit comments to the financial institution regarding its community lending activities. Each financial institution shall maintain a file open to public inspection which contains the five most recent annual community reinvestment disclosure statements, public comments received on its community investment activities, and the financial institution's response to those comments. The committee shall adopt procedures for both of the following:

a. To receive information relating to a financial institution's commitment to community reinvestment.

b. To receive challenges from any person to a financial institution's continued eligibility to receive state public funds.

4. At least once a year the committee shall review any challenges that have been filed pursuant to subsection 3. The committee may hold a public hearing to consider the challenge. In considering a challenge, the committee shall review documents filed with federal regulatory authorities pursuant to the Community Reinvestment Act, 12 U.S.C. 2901 et seq. and regulations adopted pursuant to the Act, as amended to January 1, 1984 1990. In addition, consistent with the confidentiality of financial institution records the committee shall consider other factors including, but not limited to, the following:

a. Activities conducted to determine the credit needs of the community.

b. Marketing and special credit-related programs to make citizens in the community aware of the credit services offered.

c. A description of how services actually provided satisfied the needs described under paragraph "a".

d. Practices intended to discourage application for types of credit set forth in the Community Reinvestment Act statement.

e. Geographic distribution of credit extensions, credit applications and credit denials.

f. Evidence of prohibited discriminatory or other illegal credit practices.

g. Participation in local community and rural development and redevelopment projects, and in state and federal business and economic development programs. The committee may specify by rule which programs must be included in the annual statement.

h. Origination or purchase of residential mortgage loans, housing rehabilitation loans, home improvement loans and business or farm loans within the community.

i. Ability to meet various community credit needs based on financial condition, size, legal impediments, and local economic conditions.

5. a. A person who believes a bank, savings and loan association, or savings bank has failed to meet its community reinvestment responsibility may file a complaint with the committee detailing the basis for that belief.

b. If any committee member, in the member's discretion, finds that the complaint has merit, the member may order the bank, savings and loan association, or savings bank alleged to have failed to meet its community reinvestment responsibility to attend and participate in a meeting with the complainant. The committee member may specify who, at minimum, shall represent the financial institution at the meeting. At the meeting, or at any other time, the financial institution may, but is not required to, enter into an agreement with a complainant to correct alleged failings.

c. A majority of the committee may order a bank, savings and loan association, or savings bank, against which a complaint has been filed pursuant to this subsection, to disclose such additional information relating to community reinvestment as required by the order of the majority of the committee.

d. This subsection does not preempt any other remedies available under statutory or common law available to the committee, the superintendent of banking, or aggrieved persons to cure violations of this section or chapter 524, or rules adopted pursuant to this section or chapter 524. The committee may conduct a public hearing as provided in subsection 4 based upon the same complaint. An order finding merit in a complaint and ordering a meeting is not an election of remedies.

Sec. 2. Section 524.1802, Code 1989, is amended to read as follows:

524.1802 LIMITATION.

1. A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of a bank, savings and loan association, or savings bank, or the power to control in any manner the election of a majority of the directors of a bank, savings and loan association, or savings bank if upon the acquisition the banks, savings and loan associations, and savings banks so owned or controlled by the bank holding company would have, in the aggregate, more than ten percent of the total time and demand deposits of all banks, savings and loan associations, and savings banks in this state, as determined by the superintendent on the basis of the most recent reports of the banks, savings and loan associations, and savings banks in the state to their supervisory authorities which are available at the time of the acquisition.

2. A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of a savings and loan association or savings bank, or the power to control in any manner the election of a majority of the directors of a savings and loan association or savings bank, if upon the acquisition the associations so owned or controlled by the bank holding company would have, in the aggregate, more than ten percent of the total time and demand deposits of all associations and savings banks in this state, as determined by the superintendent on the basis of the most recent reports of the associations in the state to their supervisory authorities which are available at the time of the acquisition. A bank holding company shall not acquire a bank or bank holding company pursuant to section 524.1805 or 524.1852 if, following that acquisition, those state and national banks located in this state in which out-of-state bank holding companies directly or indirectly control more than twenty-five percent of the voting shares or the power to control in any manner the election of the majority of directors would have, in the aggregate, more than thirty-five percent of the sum of the total time and demand deposits of all state and national banks located in this state plus the total time and demand deposits of all offices located in this state of savings and loan associations and savings banks, whether chartered under the law of this or another state or under federal law, as determined by the superintendent on the basis of the most recent reports of those financial institutions to their supervisory authorities.

Sec. 3. NEW SECTION. 524.1851 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Acquire", except in section 524.1802, subsection 1, means to directly or indirectly acquire twenty-five percent or more of the voting securities or other capital stock of, or power to control in any manner the election of a majority of the directors of, one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state.

2. "Bank holding company" means a bank holding company as defined or referred to in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1841 et seq., as amended to January 1, 1990, or a company that will become a bank holding company upon completion of an acquisition in accordance with section 524.1852.

3. "Community development corporation" means a community development corporation as defined in 42 U.S.C. § 8122.

4. "Community Reinvestment Act" means the federal Community Reinvestment Act of 1977, 12 U.S.C. § 2901 et seq., as amended to January 1, 1990.

5. "Low-income" means the income for "very low income families" as defined in section 220.1, subsection 4.

6. "Midwestern region" means the states of Illinois, Iowa, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin.

7. "Moderate-income" means the income for "lower income families" as defined in section 220.1, subsection 3.

8. "Out-of-state bank holding company" means an out-of-state bank holding company as defined or referred to in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1842(d), as amended to January 1, 1990.

9. "Regional bank holding company" means an out-of-state bank holding company located in the midwestern region other than a bank holding company authorized to make an acquisition by section 524.1805.

10. "State in which the regional bank holding company is located" means the state in which the operations of the banking subsidiaries of the regional bank holding company are "principally conducted" as defined in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1842(d), as amended to January 1, 1990. A bank holding company that is itself directly or indirectly owned or controlled by one or more bank holding companies is located in that state in which the ultimate parent bank holding company is located.

11. "Troubled bank" means a bank which has been closed by a regulatory authority or which the superintendent reasonably believes will be closed by a regulatory authority in the immediate future.

Sec. 4. NEW SECTION. 524.1852 ACQUISITIONS.

1. A regional bank holding company may directly or indirectly acquire an interest in the voting securities or other capital stock of, or power to control in any manner the election of any of the directors of, one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state.

2. Notwithstanding subsection 1, a regional bank holding company shall not directly or indirectly acquire twenty-five percent or more of the voting securities or other capital stock of, or power to control in any manner the election of a majority of the directors of, one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state without the prior approval of the superintendent and compliance with the application procedures and acquisition conditions, limitations, and requirements of this division.

Sec. 5. NEW SECTION. 524.1853 APPLICATION.

A regional bank holding company which desires to make an acquisition subject to section 524.1852, subsection 2, shall file an application with the superintendent accompanied by an application fee of ten thousand dollars payable to the superintendent. The application shall

contain such information as the superintendent may prescribe by rule as necessary or appropriate. The application shall be available for public examination upon request, except an application to acquire only a troubled bank shall not be disclosed or made available for public examination, nor shall the existence of such an application be acknowledged prior to the approval of the acquisition. The applicant shall furnish to the superintendent all of the following:

1. Information establishing that the acquisition will promote the safety and soundness of the bank or bank holding company proposed to be acquired, including the subsidiary banks of the bank holding company proposed to be acquired.

2. Information demonstrating that the applicant intends to adequately meet the convenience and needs of the communities served by the bank or subsidiary banks of the bank holding company proposed to be acquired in accordance with Iowa and federal community reinvestment requirements including, where applicable, information relating to the following:

a. Procedures proposed to be carried out by the banks or subsidiary banks of the bank holding company proposed to be acquired to ascertain the credit needs of the communities served by the banks or subsidiary banks of the bank holding company proposed to be acquired, including the extent of proposed efforts to communicate to such communities the credit services proposed to be provided by the banks or subsidiary banks of the bank holding company proposed to be acquired.

b. The extent of the proposed marketing and special credit-related programs to be conducted by the banks or subsidiary banks of the bank holding company proposed to be acquired to make the communities served by the banks or subsidiary banks of the bank holding company proposed to be acquired aware of the credit services proposed to be offered by them.

c. The extent of proposed participation by the board of directors of the bank or subsidiary banks of the bank holding company proposed to be acquired in formulating the policies and reviewing the performance of the bank or subsidiary banks of the bank holding company proposed to be acquired in meeting the purposes of the Iowa and federal community reinvestment requirements.

d. The expected geographic distribution of credit extensions, credit applications, and credit denials of the bank or subsidiary banks of the bank holding company proposed to be acquired.

e. The proposed participation, including investments by the bank or subsidiary banks of the bank holding company proposed to be acquired in local community development and redevelopment projects or programs.

f. The expected ability of the bank or subsidiary banks of the bank holding company proposed to be acquired to meet various credit needs of the communities served by the banks or subsidiary banks of the bank holding company proposed to be acquired.

3. Capital investment, loan, and dividend policies proposed by the applicant for the bank or the subsidiary banks of the bank holding company proposed to be acquired, including a discussion of the range of consumer and business services which are proposed to be offered and proposals to meet the credit needs of individuals, small businesses, and agricultural borrowers in the communities served by them.

4. Any plans of the applicant to merge, sell the assets of, or liquidate the bank, bank holding company, or the subsidiary banks of the bank holding company proposed to be acquired, or make any other major change in their business or corporate structure or management.

5. Information on how the proposed acquisition will result in net new benefits to Iowa or the communities served by the bank or subsidiary banks of the bank holding company proposed to be acquired.

6. Evidence of compliance by the subsidiary banks of the applicant in the states in which they are located with the federal Community Reinvestment Act and any applicable state community reinvestment statutes or rules.

7. Information demonstrating that the applicant intends to provide net new agricultural financing in this state. "Agricultural financing" includes credit to agricultural producers, agricultural suppliers, agricultural processors, and agricultural lenders.

Sec. 6. NEW SECTION. 524.1854 SUPERINTENDENT OF BANKING — RESPONSIBILITIES.

1. The superintendent, within thirty days of receipt of an application by a regional bank holding company to make an acquisition as authorized by this division, shall do one of the following:

- a. Accept the application for processing if it is substantially complete.
- b. Request additional information as may be necessary to complete the application.
- c. Return the application if it is substantially incomplete.

2. If an application is accepted for processing, the superintendent shall immediately notify the applicant that the application is accepted for processing and, unless the application is solely to acquire a troubled bank, publish notice of the application in the administrative bulletin.

3. Within thirty days of acceptance of an application for processing, the superintendent shall commence an investigation into the condition of the applicant and the bank or bank holding company proposed to be acquired. The superintendent may request additional information from the applicant and require its production as a condition of approval of the application.

4. The superintendent shall approve or disapprove an application within one hundred eighty days after the filing of the complete application. The time period shall be extended upon request of the applicant.

5. In deciding whether to approve an application for an acquisition under this division, the superintendent shall determine whether the proposed acquisition will promote the general good of the state, making specific written findings on each of the following criteria. The superintendent shall not approve the application unless the superintendent finds that the proposed acquisition will be of benefit to this state upon consideration of all of the following:

a. Will result in the employment of net new funds within the state. The finding as to net new funds shall take into consideration, in addition to the applicant's plans for capital investment, such other factors as its policies on loans, investments, and dividends, and its general business operations, including the range of individual and business services to be offered and the charges for the services.

b. Will maintain a reasonable level of deposits in the acquired bank to be employed within the state.

c. Will result in the enhancement of the acquired bank's ability to meet the credit needs of its entire community, consistent with safe and sound operation of the bank. In making this determination the superintendent shall assess and consider the past performance of the existing bank subsidiaries of the applicant and of the expected future performance of the acquired bank in all of the following areas:

(1) The bank's participation, including investments, in local community development and redevelopment projects or programs.

(2) The bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement and energy conservation loans, student loans, loans to women and minority-owned businesses and small business or small farm loans within its community, or the purchase of such loans originated in its community.

(3) The bank's participation in governmentally-insured, guaranteed, or subsidized loan programs for education, housing, small businesses or small farms, such as the Iowa housing finance authority, the small business administration and the farmers home administration.

(4) The bank's ability to meet various community credit needs based on its financial condition and size, legal or regulatory restrictions or requirements, local economic conditions, and other factors.

(5) Activities conducted by the bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank.

(6) The extent of the bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank.

(7) The extent of participation by the bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the federal Community Reinvestment Act.

(8) Any practices intended to discourage applications for types of credit offered by the bank.

(9) The geographic distribution of the bank's credit extensions, credit applications, and credit denials.

(10) The geographic distribution of the bank's demand deposits and time deposits, and the geographic distribution of areas with better than average deposit to loan ratios.

(11) Evidence of prohibited discriminatory or other illegal credit practices.

(12) The bank's record of opening and closing offices and providing services at offices.

(13) Any conviction for a felony within the preceding five years relating to the business of banking by any applicant or its subsidiaries, or any of their current directors or officers.

(14) The extent of foreign loan exposure and disclosure of information relating to such exposure as the superintendent may require.

d. Will not relieve any corporation of any obligation of its charter franchise.

e. Will favorably affect the economy of the state as a whole or of any area affected by the proposed transaction.

f. Will not result in banking monopoly or restraint of banking competition in the areas affected.

g. Will favorably affect borrowers or depositors of small sums.

h. Will not involve any violation of law or breach of trust.

i. Will be consistent with the public good and in the interests of the acquired bank's depositors.

j. Will not result in the acquisition of an Iowa bank by a bank or a bank holding company of inadequate safety and soundness and will not result in the impairment of the safety and soundness of the Iowa bank to be acquired.

k. Will result in net new agricultural financing in this state.

l. Will on balance have a positive effect upon the community interests of the communities served by the bank or banks to be acquired. In considering community interest factors, the superintendent may investigate in addition to the effects of the acquisition on shareholders or depositors, the effects of the acquisition on employees, suppliers, creditors, and community development. The superintendent shall consider the short-term and long-term impact upon community interests of the proposed acquisition, including the possibility that community interests may be best served by the continued independence of the bank or bank holding company to be acquired.

6. If an acquisition involves solely a troubled bank, the superintendent may waive or modify one or more limitations or conditions of this division if the superintendent determines in the superintendent's discretion that any or all of the following conditions exist:

a. The troubled bank cannot be sold unless a specific limitation or condition is modified or waived.

b. Modification or waiver of a specific limitation or condition will substantially increase the sale price received to the benefit of depositors or creditors other than shareholders.

c. Modification or waiver of a specific limitation or condition will substantially speed the sale to prevent further loss of capital.

7. The superintendent shall issue an order either approving or disapproving an application. The order shall include findings of fact based upon the application, investigation, public comments, or other submittals or evidence considered. An order disapproving an application shall list the specific reasons for disapproval.

8. Approval shall be conditioned upon the applicant entering into a contract with the superintendent providing that any bank located in this state and owned or controlled by the applicant will be operated in a manner that conforms to the findings pertaining to net new funds, maintenance of deposits and community credit needs and other findings required by subsection 5. As part of such contract, the applicant shall agree that it, as well as any Iowa bank or Iowa bank holding company acquired by it, shall provide reports and permit examinations of its

records to the extent considered necessary by the superintendent under this division to monitor and enforce the provisions of this division.

9. Appeals from a decision of the superintendent shall be pursuant to chapter 17A.

Sec. 7. NEW SECTION. 524.1855 RESTRICTIONS ON ACQUISITIONS.

1. A bank or a bank holding company acquired pursuant to this division is subject to this chapter, and all its limitations, including but not limited to, sections 524.1802, 524.1803, 524.1806, and 524.1807.

2. A regional bank holding company shall not acquire a bank or bank holding company under this division unless each of the existing bank subsidiaries of the regional bank holding company has sufficient capital to satisfy capital requirements in effect for that bank as established by the primary regulatory authority for that bank. A change in capital requirements that takes effect during the consideration of an application under this division shall be deemed in effect for purposes of this subsection.

3. A regional bank holding company shall itself have been in existence for at least three years as a condition of any acquisition, and shall not under this division acquire any of the following:

a. A bank unless the bank has been in existence and continuously operated as a bank for five or more years.

b. A bank holding company unless each of its subsidiary banks has been in existence and continuously operated as a bank for five or more years.

c. A bank holding company that has been in existence for less than three years.

4. For purposes of subsection 3, a bank or bank holding company shall be considered to have been in existence and continuously operated as a bank for the requisite period if either of the following apply:

a. The bank or bank holding company is a new bank or new bank holding company, as applicable, as a result of a consolidation of entities each of which had been in existence and continuously operated for the requisite period before the consolidation.

b. The bank or bank holding company was organized solely for the purpose of facilitating the acquisition of another bank or bank holding company that had been in existence and continuously operated for the requisite period before the acquisition.

5. For purposes of subsection 3, "subsidiary bank" does not include a bank which is not empowered to accept deposits or to make loans or to do both. This section does not apply to an acquisition by a regional bank holding company solely of a troubled bank.

6. The board of directors of a state bank or national banking association located in this state or a bank holding company located in this state may adopt an irrevocable resolution before January 1, 1991, to exempt the bank or bank holding company from the provisions of section 524.1852 for such a period of time as shall be provided in the resolution. If such a resolution is adopted, the board of directors shall file a certified copy of the resolution with the superintendent by January 1, 1991. The resolution may be renewed prior to the expiration of the period of time provided in the resolution adopted by the board of directors of the bank and filed with the superintendent, if the renewal is effective prior to the expiration of the period of time provided in the prior resolution. If such a resolution is adopted and the board of directors files a certified copy of the resolution with the superintendent as required by this subsection, the bank or bank holding company shall not be acquired directly or indirectly under section 524.1852 or acquire a bank or bank holding company outside this state until the expiration of the period of time provided in the resolution or any renewal of the resolution.

Sec. 8. NEW SECTION. 524.1856 ENFORCEMENT.

In addition to any civil penalty imposed by this division, or other relief available in law or equity, upon the superintendent's determination that the conditions of the superintendent's approval of an application have been substantially or repeatedly violated, the superintendent may order the bank holding company to do one or more of the following:

1. Cease and desist from the violation of the conditions of the superintendent's approval.

2. Forfeit the performance bond which the acquiring bank holding company posted at the time of acquisition. A bank holding company which acquires a bank or bank holding company pursuant to this division shall post a performance bond as a condition of acquisition in an amount and form determined by the superintendent, but not to exceed two hundred fifty thousand dollars and a term of five years from the date of acquisition.

3. The superintendent may assess a civil penalty to a bank holding company in violation of a condition up to five thousand dollars per violation, but not to exceed a total of two hundred fifty thousand dollars per year.

Sec. 9. NEW SECTION. 524.1857 BASIC SERVICES TRANSACTION ACCOUNT.

A bank owned or controlled by a regional bank holding company shall offer a basic services transaction account to eligible individuals. For purposes of this section:

1. "Basic services transaction account" means a transaction account that has no initial periodic service fees, allows at least six checks per month to be drawn on the account without charge, and allows at least six free electronic funds transfer transactions per month. The service fees for additional checks or electronic funds transfer transactions shall not exceed the lowest fee for similar services charged by the bank for accounts other than basic accounts.

2. "Eligible individual" means a person whose annual family income is less than the federal poverty income guidelines as published annually in the federal register by the United States department of health and human services.

Sec. 10. NEW SECTION. 524.1858 DEVELOPMENTAL LOANS.

A bank owned or controlled by a regional bank holding company shall provide, within its community, a level of developmental loans as defined by the superintendent by rule. The superintendent shall determine the level so as to maximize the availability of developmental loans within the limits of safe and sound banking practices. "Developmental loans" includes but is not limited to the following:

1. Loans for low-income and moderate-income housing, loans to community development corporations, loans to small businesses, student education loans, and energy conservation loans.

2. Loans to or equity investments in small businesses, made or originated by a small business investment company in which the bank has purchased shares or holds an equity interest, provided that either or both of the following conditions are satisfied:

a. The small business investment company has invested at least fifty percent of its investments in Iowa small businesses.

b. The small business investment company has invested at least seventy-five percent of its investments in small businesses located in Iowa or one or more contiguous states.

3. Loans within a distressed area for commercial purposes, home loans, home improvement loans, and operating loans to family farmers. The superintendent shall annually designate distressed areas. A distressed area may be designated for a geographic region smaller than a county. In designating a distressed area, the superintendent shall consider the unemployment rate, economic conditions, and credit needs of the area.

4. Agricultural loans in this state, including credit to agricultural producers, agricultural suppliers, agricultural processors, and agricultural lenders.

5. Agricultural loans to new farmers entering the profession of farming.

6. Loans for investment in a small business investment corporation, the Iowa business development finance corporation, or a similar entity designed to enhance small business development.

Sec. 11. NEW SECTION. 524.1859 ANNUAL REPORT.

The superintendent shall review the effects of this division each year, and shall file a written report of that review with the senate committee on commerce and the house of representatives committee on small business and commerce of the Iowa general assembly on or before January 31 of the following year. The report shall at minimum include all of the following:

1. A description of each acquisition under this division during the year.

2. The cumulative number of acquisitions under this division since its enactment, with sub-totals for direct bank acquisitions and for bank holding company acquisitions.

3. The percentage of aggregate demand and time deposits of all financial institutions deposited in state and national banks located in this state in which out-of-state bank holding companies own or control an interest, directly or indirectly.

4. A description of each formal or informal remedial or enforcement action taken by the superintendent during the year in connection with this division. The description shall include the bank or bank holding company involved, the nature of the acts or omissions, and the outcome of the remedial or enforcement action.

5. A description of any litigation in which the superintendent or the state became a party during the year in connection with this division.

6. A description of any decision by a regulatory authority of the federal government, this state, or another state, or of a court during the year in connection with this division, and the effects, if any, of that decision upon the administration or enforcement of this division.

7. Any recommended amendments relating to this division.

8. Other information the superintendent deems pertinent.

Sec. 12. NEW SECTION. 524.1860 CHANGE OF LOCATION – DIVESTMENT.

A regional bank holding company or a bank holding company located outside of the mid-western region, other than a bank holding company authorized to acquire an Iowa bank or bank holding company pursuant to section 524.1805, shall divest itself of its interest in a state or national bank located in this state if any of the following occur:

1. The bank holding company is located outside of the midwestern region and acquires a bank located in this state.

2. The bank holding company is located outside of the midwestern region and acquires a bank holding company that directly or indirectly owns or controls a bank located in this state.

3. The regional bank holding company ceases to be located in the midwestern region while directly or indirectly owning or controlling a bank located in this state.

4. The regional bank holding company ceases to be located in the midwestern region while directly or indirectly owning or controlling a bank holding company that directly or indirectly owns or controls a bank located in this state.

The superintendent may prosecute any action or proceeding necessary to compel compliance with this section.

Sec. 13. NEW SECTION. 524.1861 INSURANCE SALES.

1. Insurance activities in Iowa of an out-of-state bank holding company and its subsidiaries are subject to regulation, including but not limited to regulation under title 20, in the same manner and to the same extent as are the insurance activities of an Iowa bank holding company and its subsidiaries.

2. An authorization for a bank chartered in this state, to engage in activities regulated under title 20, if any, does not grant the bank the ability or right to engage in such activities outside of this state.

Sec. 14. ADVISORY COUNCIL.

An advisory council is established to review the effectiveness and enforceability of the provisions of this division. The advisory council shall be composed of seven persons. Five members shall be appointed by the legislative council and two members shall be appointed by the superintendent of banking. Vacancies shall be filled by the appointing authority which appointed the person who has or is to vacate the council.

1. The members appointed by the legislative council shall meet the following requirements:

a. Two of the members shall be agricultural producers eligible for assistance from the agricultural development authority pursuant to section 175.13A.

b. Two of the members shall be businesspersons engaged in a small business as defined in section 220.1, subsection 28.

c. One of the members shall be eligible for the Iowa finance authority's residential mortgage interest reduction program pursuant to section 220.81.

2. The members appointed by the superintendent of banking shall meet the following requirements:

a. One of the members shall be employed by a bank which is not owned in whole or in part by a bank holding company.

b. One of the members shall be employed by a bank owned by a bank holding company or employed by a bank holding company.

For the purposes of this section, a bank holding company means a bank holding company as defined in section 524.1801.

The advisory council shall monitor and review the implementation of this Act and the effectiveness and enforceability of this Act. The advisory council shall meet as often as deemed necessary and shall from time to time, but not less than quarterly, recommend to the superintendent of banking the adoption of appropriate rules to maximize the effectiveness and enforceability of this Act. Members of the advisory committee shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes to the superintendent of banking, and are subject to the budget requirements of chapter 8. Each member of the council may also be eligible to receive compensation as provided in section 7E.6. The advisory council shall from time to time, but not less than quarterly, recommend to the superintendent of banking any appropriate legislation as may be necessary to maximize the effectiveness and enforceability of this Act. The advisory council shall submit its final recommendations to the superintendent of banking not later than January 1, 1992. The banking division of the department of commerce shall provide staff support and assistance to the advisory council.

Sec. 15. SEVERABILITY.

1. If it is ultimately determined that any provision of this Act other than section 524.1852, or the application of any provision other than section 524.1852, to any person or circumstance, is invalid, the remainder of the Act and the application of the Act shall not be affected by the determination of invalidity to persons or circumstances other than those to which it is held invalid.

2. It is the express intention of the Iowa general assembly to permit interstate banking on a regional basis. Therefore, if section 524.1852 is determined by a final nonappealable order of an Iowa or federal court of competent jurisdiction to be invalid as applied or unconstitutional, this Act shall be null and void and of no further force and effect from the effective date of the final determination.

3. If before the effective date of a final determination described in subsection 2, a bank holding company directly or indirectly acquires an interest in or control of a bank located in Iowa under this Act, the bank holding company may maintain the interest acquired and may expand its holdings within the state except as otherwise limited by this chapter.

Sec. 16.

Sections 524.1851 through 524.1899 are established as a new division entitled "REGIONAL BANKING" to be added following division XVIII. The Code editor may renumber existing division XIX as division XX and renumber the sections in the divisions following division XVIII consistent with the numbering of other divisions in chapter 524.

Sec. 17.

This Act takes effect January 1, 1991.

Approved February 8, 1990