

CHAPTER 138

REGULATION OF BANKING, CREDIT UNIONS, AND CONSUMER CREDIT TRANSACTIONS

S.F. 502

AN ACT relating to banks, credit unions, and certain consumer credit transactions.

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

Section 1. Section 524.213, Code 2017, is amended to read as follows:

524.213 Duties and powers of superintendent.

The superintendent shall have general control, supervision and regulation of all state banks and shall be charged with the administration, interpretation, and execution of the laws, rules, and regulations of this state and any other state or federal law or regulation relating to banks and banking and with such other duties and responsibilities as are imposed upon the superintendent by the laws of this state. The superintendent shall have power to adopt and promulgate such rules and regulations as necessary to carry out and enforce, properly and effectively, the provisions of [this chapter](#) and [chapter 12C](#) applicable to banks.

Sec. 2. Section 524.612, subsections 1, 2, and 5, Code 2017, are amended by striking the subsections.

Sec. 3. Section 524.612, subsection 3, Code 2017, is amended to read as follows:

3. A director shall not receive terms or be paid a rate of interest on deposits, by a state bank of which the person is a director, which are more favorable than that provided to any other customer under similar circumstances. Any waiver of ordinary or customary charges related to deposit accounts shall not violate [this subsection](#).

Sec. 4. Section 524.613, subsection 2, Code 2017, is amended by striking the subsection.

Sec. 5. Section 524.706, subsection 1, Code 2017, is amended by striking the subsection.

Sec. 6. Section 524.706, subsection 2, Code 2017, is amended to read as follows:

2. [Section 524.612, subsection 2](#), applies to executive officers, ~~and [section 524.612, subsections 3 and 4](#), apply to all officers and employees.~~

Sec. 7. Section 524.710, subsection 2, Code 2017, is amended by striking the subsection.

Sec. 8. Section 524.1601, subsection 1, paragraph b, Code 2017, is amended to read as follows:

b. The amount by which the director's, or executive officer's, ~~or employee's~~ deposit account in the state bank or bank holding company is overdrawn, upon conviction of a in violation of [section 524.613, subsection 2](#), or of [section 524.710, subsection 2](#) [12 C.F.R. §215.4\(e\)](#).

Sec. 9. Section 524.1601, subsection 2, Code 2017, is amended to read as follows:

2. A director or officer who willfully makes or receives a loan in violation of [section 524.612, subsection 1](#), or [section 524.706, subsection 1](#) [12 C.F.R. §215.4](#) or [215.5](#), shall be guilty of a serious misdemeanor and shall be subject to an additional fine equal to that amount of the loan in excess of the limitation imposed by such ~~subsections~~ regulations, and shall be forever disqualified from acting as a director or officer of any state bank or bank holding company. ~~For the purpose of [this subsection](#), amounts which are treated as obligations of an officer or director pursuant to [section 524.612, subsection 5](#), shall be considered in determining whether the loan or extension of credit is in violation of [section 524.612, subsection 1](#), and [section 524.706, subsection 1](#).~~

Sec. 10. Section 524.1806, Code 2017, is amended to read as follows:

524.1806 Banks owned or controlled — officers and directors.

An individual who is a director or an officer of a bank holding company, as specified by [section 524.1801](#), is deemed to be a director or an officer, or both, as the case may be, of each bank so owned or controlled by that bank holding company, for the purposes of [sections 524.612, 524.613 and 524.706](#), and for the purposes of [12 C.F.R. pt. 215](#).

Sec. 11. Section 533.205, subsection 7, Code 2017, is amended to read as follows:

7. A state credit union ~~shall not~~ may pay an overdraft of a director, officer, or employee of the state credit union on an account at the state credit union, ~~unless subject to the rules of the superintendent, when~~ the payment of funds is made in accordance with ~~either~~ any of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state credit union.

c. The overdraft is paid pursuant to an overdraft protection plan or courtesy pay program.

Sec. 12. Section 537.2301, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A supervised loan made by a person in violation of [subsection 2](#) shall be void and the consumer is not obligated to pay either the amount financed or the finance charge. If the consumer has paid any part of the amount financed or the finance charge, the consumer has a right to recover the payment from the person in violation of [subsection 2](#) or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. With respect to violations arising from loans made pursuant to open-end credit, no action pursuant to [this subsection](#) may be brought more than two years after the violation occurred. With respect to violations arising from other loans, no action pursuant to [this subsection](#) may be brought more than one year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid.

Sec. 13. Section 537.2501, subsection 1, paragraph f, subparagraph (1), Code 2017, is amended to read as follows:

(1) With respect to open-end credit pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for an over-limit charge ~~up to fifteen dollars~~ in accordance with [12 C.F.R. §1026.52\(b\)](#) if the balance of the account exceeds the credit limit established pursuant to the agreement. The over-limit charge under this paragraph shall not be assessed again in a subsequent billing cycle unless in a subsequent billing cycle the account balance has been reduced below the credit limit.

Sec. 14. Section 537.2501, subsection 1, paragraph g, Code 2017, is amended to read as follows:

~~g. A surcharge of not more than five percent of the amount of the face value of the payment instrument or twenty dollars, whichever is greater, for each dishonored payment instrument provided that the fee is clearly and conspicuously disclosed in the cardholder agreement. However, the amount of the surcharge shall not exceed twenty dollars unless the check, draft, or order was presented twice or the maker does not have an account with the drawee. If the check, draft, or order was presented twice or the maker does not have an account with the drawee, the amount of the surcharge shall not exceed fifty dollars as provided for in [section 554.3512](#) for a dishonored check, draft, or order that was accepted as payment for a consumer credit transaction payment. The surcharge shall not be assessed against the maker if the reason for the dishonor of the instrument is that the maker has stopped payment pursuant to [section 554.4403](#).~~

Sec. 15. Section 537.2501, subsection 1, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Credit reporting charges.

Sec. 16. Section 537.2502, subsection 1, paragraph a, subparagraph (1), Code 2017, is amended to read as follows:

(1) Five percent of the unpaid amount of the installment, or a maximum of ~~twenty~~ thirty dollars.

Sec. 17. Section 537.2502, subsection 1, paragraph b, Code 2017, is amended to read as follows:

b. For an interest-bearing transaction, an amount not exceeding five percent of the unpaid amount of the installment, or a maximum of ~~fifteen~~ thirty dollars.

Sec. 18. Section 537.2502, subsection 4, Code 2017, is amended to read as follows:

4. With respect to open-end credit, the parties may contract for a delinquency charge on any payment not paid in full when due, as originally scheduled or as deferred, in an amount up to ~~fifteen~~ thirty dollars.

Sec. 19. Section 537.2510, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 8. This section does not apply to a financial institution as defined in section 537.1301.

Sec. 20. Section 537.5201, subsection 3, Code 2017, is amended to read as follows:

3. If a creditor has contracted for or received a charge in excess of that allowed by this chapter, or if a consumer is entitled to a refund and a person liable to the consumer refuses to make a refund within a reasonable time after demand, the consumer may recover from the creditor or the person liable, in an action other than a class action, the excess charge or refund and a penalty in an amount determined by the court not less than ~~one~~ two hundred dollars or more than ~~one~~ two thousand dollars. With respect to excess charges arising from sales or loans made pursuant to open-end credit, no action pursuant to this subsection may be brought more than two years after the time the excess charge was made. With respect to excess charges arising from other consumer credit transactions no action pursuant to this subsection may be brought more than one year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made. For purposes of this subsection, a reasonable time is presumed to be thirty days.

Sec. 21. Section 537.5203, subsection 1, paragraph a, Code 2017, is amended to read as follows:

a. Twice the amount of the finance charge in connection with the transaction, but the liability pursuant to this paragraph shall be not less than ~~one~~ two hundred dollars or more than ~~one~~ two thousand dollars.

Sec. 22. Section 537.6113, subsection 2, Code 2017, is amended to read as follows:

2. The administrator may bring a civil action against a person to recover a civil penalty of no more than ~~five~~ ten thousand dollars for repeatedly and intentionally violating this chapter. No civil penalty pursuant to this subsection may be imposed for violations of this chapter occurring more than two years before the action is brought or for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

Sec. 23. Section 537.6203, subsections 1 and 4, Code 2017, are amended to read as follows:

1. A person required to file notification shall pay to the administrator an annual fee of ~~ten~~ fifty dollars. The fee shall be paid with the filing of the first notification and on or before January 31 of each succeeding year.

4. In addition to the penalties provided by section 537.6113, subsection 3, the administrator may collect a charge, established by rule, not exceeding ~~twenty-five~~ seventy-five dollars from

each person required to pay fees under [this section](#) who fails to pay the fees in full within thirty days after they are due.

Approved May 11, 2017