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COMMERCE, REGULATION & LABOR

HOUSE FILE 2230  
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Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the licensing and regulation of motor  
2 vehicle equity line of credit lenders, and providing for fees  
3 and penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2230

1 Section 1. NEW SECTION. 536B.1 PURPOSE.

2 It is the policy of this state and the purpose of this  
3 chapter to provide for a sound system of the business of  
4 providing motor vehicle equity lines of credit by providing  
5 for the licensing of motor vehicle equity line of credit  
6 lenders by the superintendent.

7 Sec. 2. NEW SECTION. 536B.2 DEFINITIONS.

8 As used in this chapter, unless the context otherwise  
9 requires:

10 1. "Borrower" means the person obligated to repay the loan  
11 obligation under a motor vehicle equity line of credit  
12 agreement.

13 2. "Control" means possession, direct or indirect, of the  
14 power to direct or cause the direction of management and  
15 policies of an entity whether through the ownership of voting  
16 securities by contract or otherwise; provided, that a person  
17 shall not be deemed to control an entity solely on account of  
18 being a director, officer, or employee of such entity.

19 For purposes of this subsection, a person who, directly or  
20 indirectly, owns, controls, holds the power to vote, or holds  
21 proxies representing twenty-five percent or more of the then  
22 outstanding voting securities issued by an entity is presumed  
23 to control such entity.

24 For purposes of this subsection, the superintendent may  
25 determine whether a person, in fact, controls an entity.

26 3. "Controlling person" means any person in control of a  
27 motor vehicle equity line of credit lender.

28 4. "Lender" means a motor vehicle equity line of credit  
29 lender.

30 5. "Motor vehicle" means any automobile, motorcycle,  
31 mobile home, truck, van, or other vehicle operated on public  
32 highways and streets.

33 6. "Motor vehicle equity line of credit agreement" means  
34 an agreement under which a lender extends an open-end credit  
35 plan or loan to a consumer that is secured by an interest in a

1 motor vehicle and imposes interest on the outstanding unpaid  
2 balance.

3 7. "Motor vehicle equity line of credit lender" means a  
4 person engaged in the business of making motor vehicle equity  
5 line of credit agreements with borrowers.

6 8. "Motor vehicle equity line of credit office" means the  
7 location at which a motor vehicle equity line of credit lender  
8 regularly conducts business.

9 9. "Superintendent" means either of the following:

10 a. The superintendent of credit unions for licensees that  
11 are credit unions or an affiliate of a credit union.

12 b. The superintendent of banking for all other licensees  
13 under this chapter.

14 Sec. 3. NEW SECTION. 536B.3 LICENSE REQUIRED.

15 1. A person shall not engage in the business of motor  
16 vehicle equity line of credit lending without having first  
17 obtained a license from the superintendent under this chapter.  
18 A separate license shall be required for each motor vehicle  
19 equity line of credit office from which such business is  
20 conducted.

21 2. Any motor vehicle equity line of credit agreement made  
22 without first having obtained a license is void and the person  
23 making the agreement forfeits the right to collect any moneys,  
24 including principal, interest, and any other fee paid by the  
25 borrower in connection with the agreement. The person making  
26 the agreement shall return to the borrower the titled motor  
27 vehicle pledged, or the fair market value of such motor  
28 vehicle, and all principal, interest, and any other fees paid  
29 by the borrower.

30 Sec. 4. NEW SECTION. 536B.4 AUTHORITY OF LICENSED MOTOR  
31 VEHICLE EQUITY LINE OF CREDIT LENDERS.

32 1. A motor vehicle equity line of credit lender licensed  
33 pursuant to this chapter has the power to make motor vehicle  
34 equity line of credit agreements in accordance with the  
35 provisions of this chapter.

1        2. A motor vehicle equity line of credit lender licensed  
2 pursuant to this chapter shall not have the powers enumerated  
3 in this chapter unless the motor vehicle equity line of credit  
4 agreement complies with section 536B.9. A motor vehicle  
5 equity line of credit lender exercising any of the powers in  
6 compliance with this chapter shall not be deemed in violation  
7 of any usury law.

8        Sec. 5. NEW SECTION. 536B.5 ELIGIBILITY REQUIREMENTS FOR  
9 LICENSE -- APPLICATIONS -- ISSUANCE OF LICENSE.

10       1. To qualify for a license under this chapter, an  
11 applicant shall satisfy all of the following requirements:

12       a. The applicant has a tangible net worth of not less than  
13 seventy-five thousand dollars for each motor vehicle equity  
14 line of credit office.

15       b. The financial responsibility, financial condition,  
16 business experience, character, and general fitness of the  
17 applicant shall reasonably warrant the belief that the  
18 applicant's business will be conducted lawfully and fairly.  
19 In determining whether the requirements of this paragraph have  
20 been met, and for the purpose of investigating compliance with  
21 this chapter, the superintendent may review and approve all of  
22 the following:

23       (1) The relevant business records and the capital adequacy  
24 of the applicant.

25       (2) The financial responsibility, financial condition,  
26 business experience, character, and general fitness of any  
27 person who is a director, officer, or five percent or more  
28 shareholder of the applicant, or owns or controls the  
29 applicant.

30       (3) Any adjudication against the applicant or any person  
31 referred to in subparagraph (2) of any criminal activity, any  
32 fraud or other act of personal dishonesty, or any act,  
33 omission, or practice which constitutes a breach of a  
34 fiduciary duty.

35       2. The requirements set forth in subsection 1 are

1 continuing in nature.

2 3. Each application for a license shall be in writing and  
3 under oath to the superintendent, in a form prescribed by the  
4 superintendent, and shall include all of the following  
5 information:

6 a. The legal name, residence and business address of the  
7 applicant and, if the applicant is an entity, of every member,  
8 partner, officer, managing employee, director, trustee, and  
9 person who controls the entity.

10 b. The address where the registered agent of the applicant  
11 shall be located, if any.

12 c. Other data and information the superintendent may  
13 reasonably require with respect to the applicant, its  
14 directors, trustees, officers, members, partners, managing  
15 employees, or controlling persons.

16 4. Each application for a license shall be accompanied by  
17 all of the following:

18 a. A filing fee, in an amount prescribed by the  
19 superintendent by rule but not to exceed one thousand dollars,  
20 which shall not be subject to refund but which, if the license  
21 is granted, shall constitute the license fee for the first  
22 license year or part thereof.

23 b. An accounting balance sheet for the immediately  
24 preceding fiscal year prepared in accordance with generally  
25 accepted accounting principles.

26 c. A surety bond in the principal sum of twenty-five  
27 thousand dollars per motor vehicle equity line of credit  
28 office. The bond shall be in a form satisfactory to the  
29 superintendent and shall be issued by a bonding company or  
30 insurance company authorized to do business in this state.  
31 The bond shall cover the performance of the obligations of the  
32 applicant and the applicant's agents in connection with loan  
33 activities under this chapter. An applicant or licensee may,  
34 in lieu of filing a bond, provide the superintendent with an  
35 irrevocable letter of credit in the amount of twenty-five

1 thousand dollars per motor vehicle equity line of credit  
2 office, issued by any bank, trust company, savings and loan  
3 association, or credit union operating in this state in a form  
4 acceptable to the superintendent.

5 5. Upon the filing of an application in a form prescribed  
6 by the superintendent, accompanied by the fee and documents  
7 required in this section, the superintendent shall investigate  
8 to ascertain whether the qualifications prescribed by this  
9 section have been satisfied. If the superintendent finds that  
10 the qualifications have been satisfied, the superintendent  
11 shall issue to the applicant a license to engage in the motor  
12 vehicle equity line of credit lending business in this state.

13 6. If the superintendent determines that an applicant is  
14 not qualified to receive a license, the superintendent shall  
15 notify the applicant in writing that the application has been  
16 denied, stating the basis for denial. If the superintendent  
17 denies an application, or if the superintendent fails to act  
18 on an application within ninety days after the filing of a  
19 properly completed application, the applicant may make written  
20 demand to the superintendent for a hearing before the  
21 superintendent on the question of whether the license should  
22 be granted. Any hearing shall be conducted pursuant to the  
23 provisions of chapter 17A. A decision of the superintendent  
24 following any hearing on the denial of license is subject to  
25 review under chapter 17A.

26 7. A license shall be required for each motor vehicle  
27 equity line of credit office in this state. The license shall  
28 be conspicuously posted at each motor vehicle equity line of  
29 credit office of the licensee.

30 8. A license is not transferable or assignable except as  
31 allowed by rule of the superintendent.

32 9. A license issued pursuant to this section shall expire  
33 each year on May 31, unless the licensee submits a timely  
34 renewal application, or unless earlier surrendered, suspended,  
35 or revoked pursuant to this chapter. Each license may be

1 renewed upon application by the license holder, submitted at  
2 least thirty days prior to the renewal date, showing continued  
3 compliance with the requirements of this section and the  
4 payment to the superintendent of the annual license fee in an  
5 amount prescribed by the superintendent by rule but not to  
6 exceed one thousand dollars for each licensed motor vehicle  
7 equity line of credit office in this state.

8 10. The superintendent may establish a biennial licensing  
9 arrangement for the filing of the application for license  
10 renewal but the license fee shall not be payable for more than  
11 one year at a time.

12 Sec. 6. NEW SECTION. 536B.6 NOTICE OF CHANGE IN CONTROL  
13 AND PRINCIPAL PLACE OF BUSINESS.

14 1. Except when a change of control is beyond the control  
15 of the motor vehicle equity line of credit lender, or in the  
16 case of an emergency as determined by the superintendent, a  
17 change in control of a motor vehicle equity line of credit  
18 lender shall require thirty days prior written notice to the  
19 superintendent. In the case of a publicly traded corporation,  
20 such notification shall be made in writing within thirty days  
21 of the change or acquisition of control of the motor vehicle  
22 equity line of credit lender.

23 2. Upon notification of a change in control, the  
24 superintendent may require such information as deemed  
25 necessary to determine whether to approve a new controlling  
26 person. The superintendent may disapprove the new person for  
27 any reason the superintendent could deny a license. If the  
28 superintendent disapproves any person, the superintendent  
29 shall allow a reasonable time for the licensee to remove such  
30 person as controlling person.

31 3. Costs incurred by the superintendent in investigating a  
32 change of control notification shall be paid by the person  
33 requesting such approval.

34 4. Whenever control of a motor vehicle equity line of  
35 credit lender is acquired or exercised in violation of this

1 chapter, the licensee of the motor vehicle equity line of  
2 credit lender may be subject to penalties under section  
3 536B.16.

4 5. Each motor vehicle equity line of credit lender shall  
5 notify the superintendent fifteen days prior to any change in  
6 the principal place of business of a motor vehicle equity line  
7 of credit lender.

8 Sec. 7. NEW SECTION. 536B.7 REPORTING REQUIREMENTS.

9 1. Within fifteen days of the occurrence of any of the  
10 events listed below, a motor vehicle equity line of credit  
11 lender shall file a written report with the superintendent  
12 describing such event and the expected impact on the  
13 activities of the motor vehicle equity line of credit lender  
14 in this state:

15 a. The filing for bankruptcy or reorganization by the  
16 motor vehicle equity line of credit lender.

17 b. Any felony indictment or conviction of the motor  
18 vehicle equity line of credit lender or any of its officers,  
19 directors, or controlling persons.

20 2. Each motor vehicle equity line of credit lender shall  
21 file a report with the superintendent by May 1 after being  
22 licensed pursuant to this chapter and every odd numbered year  
23 thereafter, containing the following information:

24 a. The names and addresses of all controlling persons of  
25 the motor vehicle equity line of credit lender.

26 b. Accounting balance sheets as required by the  
27 superintendent.

28 c. If the motor vehicle equity line of credit lender is a  
29 corporation, the names and addresses of its officers and  
30 directors; if the motor vehicle equity line of credit lender  
31 is a partnership, the names and addresses of the partners; and  
32 if the motor vehicle equity line of credit lender is a limited  
33 liability company, the names and addresses of the members of  
34 the limited liability company; or if the motor vehicle equity  
35 line of credit lender is any other form of entity, the names

1 and addresses of all persons who generally manage or control  
2 the business.

3 d. If the motor vehicle equity line of credit lender holds  
4 two or more licenses or is affiliated with other motor vehicle  
5 equity line of credit lenders, a composite report may be  
6 filed.

7 3. All reports required under this section shall be filed  
8 in such form as may reasonably be required by the  
9 superintendent and shall be sworn to by a responsible officer  
10 of the motor vehicle equity line of credit lender.

11 4. The information submitted by motor vehicle equity line  
12 of credit lenders pursuant to this section shall be  
13 confidential and shall not be considered public records under  
14 chapter 22. However, the superintendent is authorized to  
15 disclose information obtained pursuant to the authority  
16 granted under this chapter to any local, state, or federal  
17 agency as the superintendent deems necessary.

18 Sec. 8. NEW SECTION. 536B.8 RECORDS OF LIENS.

19 Every motor vehicle equity line of credit lender shall keep  
20 a numbered record of each and every motor vehicle equity line  
21 of credit agreement executed by the motor vehicle equity line  
22 of credit lender and a borrower. Such record, as well as the  
23 motor vehicle equity line of credit agreement, shall include  
24 the following information:

25 1. The make, model, and year of the motor vehicle pledged  
26 as security under the agreement.

27 2. The vehicle identification number, or other comparable  
28 identification number, along with the motor vehicle  
29 registration plate number, if applicable, of the pledged motor  
30 vehicle.

31 3. The name, residential address, date of birth, and  
32 physical description of the borrower.

33 4. The date the motor vehicle equity line of credit  
34 agreement is executed by the motor vehicle equity line of  
35 credit lender and the borrower.

1 5. The maturity date of the motor vehicle equity line of  
2 credit agreement which shall not be less than thirty days  
3 after the motor vehicle equity line of credit agreement is  
4 executed by the motor vehicle equity line of credit lender and  
5 the borrower.

6 Sec. 9. NEW SECTION. 536B.9 AGREEMENT REQUIREMENTS.

7 1. All of the following information shall be printed on a  
8 motor vehicle equity line of credit agreement:

9 a. The name and physical address of the motor vehicle  
10 equity line of credit lender and office.

11 b. In not less than fourteen point bold type, the name and  
12 address of the superintendent as well as a telephone number to  
13 which consumers may address complaints.

14 c. The following statement in not less than fourteen point  
15 bold type:

16 "THIS LOAN IS NOT INTENDED TO MEET LONG-TERM FINANCIAL  
17 NEEDS. YOU SHOULD USE THIS LOAN ONLY TO MEET SHORT-TERM CASH  
18 NEEDS. INTEREST WILL CONTINUE TO ACCRUE AS LONG AS THERE IS A  
19 BALANCE OUTSTANDING. THIS LOAN IS A HIGHER-INTEREST RATE  
20 LOAN. YOU SHOULD CONSIDER WHAT OTHER LOWER-COST LOANS MAY BE  
21 AVAILABLE TO YOU. YOU ARE PLACING AT RISK YOUR CONTINUED  
22 OWNERSHIP OF THE MOTOR VEHICLE YOU ARE PLEDGING FOR THIS LOAN.  
23 IF YOU FAIL TO REPAY THE LOAN IN ACCORDANCE WITH THE TERMS OF  
24 THE AGREEMENT, THE LENDER MAY TAKE POSSESSION OF THE MOTOR  
25 VEHICLE PLEDGED AND SELL IT IN THE MANNER PROVIDED BY LAW.  
26 YOU HAVE A LEGAL RIGHT OF RECISION. THIS MEANS YOU MAY CANCEL  
27 YOUR AGREEMENT AT NO COST TO YOU BY RETURNING THE LOAN  
28 PROCEEDS YOU BORROWED BY THE NEXT BUSINESS DAY AFTER THE DATE  
29 OF YOUR LOAN."

30 d. The following statement:

31 "The borrower represents and warrants, to the best of the  
32 borrower's knowledge, that the pledged motor vehicle is not  
33 stolen and has no liens or encumbrances against it, the  
34 borrower has the right to enter into this transaction, and the  
35 borrower will not apply for a duplicate certificate of title

1 while the motor vehicle equity line of credit agreement is in  
2 effect."

3 e. In not less than fourteen point type, an amortization  
4 schedule showing the total of each payment and what dollar  
5 amount of each payment represents payment of interest and what  
6 dollar amount represents payment of principal.

7 2. The borrower shall sign the motor vehicle equity line  
8 of credit agreement and shall be provided with a copy of such  
9 agreement. The motor vehicle equity line of credit agreement  
10 shall also be signed by the motor vehicle equity line of  
11 credit lender's employee or agent. Each signature shall be  
12 accompanied by the date and time of signing.

13 3. A borrower may cancel a motor vehicle equity line of  
14 credit agreement without cost by returning the full principal  
15 amount borrowed to the motor vehicle equity line of credit  
16 lender within twenty-four hours after signing an agreement  
17 pursuant to subsection 2.

18 Sec. 10. NEW SECTION. 536B.10 FEES AND CHARGES --  
19 DISCLOSURE FORM.

20 1. For each thirty-day lending period under a motor  
21 vehicle equity line of credit agreement, a lender shall not  
22 charge a fee or interest in excess of eight dollars on each  
23 one hundred dollar increment of the remaining principal  
24 balance or pro rata for any portion of one hundred dollars  
25 borrowed.

26 2. A motor vehicle equity line of credit lender may assess  
27 and collect from a borrower amounts paid to a governmental  
28 agency to record the lender's lien on the certificate of title  
29 to the motor vehicle pledged as security under a motor vehicle  
30 equity line of credit agreement, and amounts paid to  
31 independent third parties to repossess and sell the pledged  
32 motor vehicle.

33 3. In accordance with chapter 17A, the superintendent  
34 shall adopt rules requiring each motor vehicle equity line of  
35 credit lender to issue a standardized consumer notification

1 and disclosure form in compliance with federal truth-in-  
2 lending laws prior to entering into any motor vehicle equity  
3 line of credit agreement. The required style, content, and  
4 method of executing the form shall be prescribed by rule and  
5 shall be designed to ensure that the borrower, prior to  
6 entering into such agreement, receives and acknowledges an  
7 accurate and complete notification and disclosure of the  
8 itemized and total amounts of all interest, fees, charges, and  
9 other costs that will or potentially could be imposed as a  
10 result of such agreement.

11 Sec. 11. NEW SECTION. 536B.11 RIGHT TO REDEEM.

12 Except as otherwise provided in this chapter, a borrower,  
13 upon presentation of suitable identification, shall be  
14 entitled to redeem the motor vehicle pledged as security under  
15 the motor vehicle equity line of credit agreement or  
16 certificate of title described therein upon satisfaction of  
17 all outstanding obligations pursuant to the motor vehicle  
18 equity line of credit agreement.

19 Sec. 12. NEW SECTION. 536B.12 MANDATORY PRINCIPAL  
20 REDUCTION PAYMENT.

21 1. For each payment period under a motor vehicle equity  
22 line of credit agreement, the borrower shall be required to  
23 make a principal reduction payment in an amount equal to at  
24 least ten percent of the principal outstanding on the motor  
25 vehicle equity line of credit agreement as of the last payment  
26 date in addition to interest and fees authorized by this  
27 chapter.

28 2. Interest and fees authorized by this chapter at each  
29 successive billing cycle shall be calculated on the  
30 outstanding principal balance.

31 3. Payments in excess of a principal reduction payment  
32 shall be credited to the outstanding principal on the day  
33 received. If on a payment date, the borrower has not made  
34 previous principal reduction payments adequate to satisfy the  
35 current required principal reduction payment, and the borrower

1 cannot repay at least ten percent of the principal balance  
2 outstanding as of the billing date and any outstanding  
3 interest and fees authorized by this chapter, the motor  
4 vehicle equity line of credit lender may, but shall not be  
5 obligated to, defer any required principal payment, but shall  
6 not charge additional interest or fees on the principal amount  
7 deferred.

8 Sec. 13. NEW SECTION. 536B.13 DEFAULT -- REPOSSESSION  
9 AND SALE -- RIGHT TO REDEEM.

10 1. The motor vehicle equity line of credit lender may  
11 declare a default pursuant to the requirements of section  
12 537.5109.

13 2. Prior to serving a notice to cure default, the motor  
14 vehicle equity line of credit lender shall attempt to contact  
15 the borrower by telephone or certified mail and warn the  
16 borrower of the default by the borrower.

17 3. Prior to taking possession of the pledged motor  
18 vehicle, the motor vehicle equity line of credit lender shall  
19 serve a notice to cure default to the borrower pursuant to the  
20 requirements of sections 537.5110 and 537.5111.

21 4. If the borrower does not cure the default within the  
22 time provided in the notice to cure, the motor vehicle equity  
23 line of credit lender may repossess the pledged motor vehicle  
24 pursuant to the motor vehicle equity line of credit agreement  
25 and in compliance with chapter 554, article 9, part 6.  
26 However, prior to repossessing the pledged motor vehicle, the  
27 lender shall afford the borrower an opportunity to make the  
28 pledged motor vehicle available to the lender at a place,  
29 date, and time reasonably convenient to the lender and the  
30 borrower. In taking possession, the motor vehicle equity line  
31 of credit lender, or the lender's agent, may proceed without  
32 judicial process if repossession can be accomplished without  
33 breach of the peace, or the lender may proceed by action to  
34 obtain judicial process. After the lender takes possession of  
35 the pledged motor vehicle, the lender shall immediately return

1 without charge any personal belongings left within the pledged  
2 motor vehicle to the borrower.

3 5. There shall be no further interest charged to the  
4 borrower after repossession of the pledged motor vehicle.

5 6. After repossession, the motor vehicle equity line of  
6 credit lender shall mail a notice of right to redeem to the  
7 borrower, notifying the borrower that the borrower must redeem  
8 the certificate of title to the pledged motor vehicle within  
9 ten days by paying all outstanding principal, interest, and  
10 fees authorized by this chapter owed by the borrower to the  
11 motor vehicle equity line of credit lender, plus all  
12 repossession charges. If the borrower exercises the right of  
13 redemption, the borrower shall be given possession of the  
14 pledged motor vehicle and the certificate of title without  
15 further charge. If the borrower fails to redeem the motor  
16 vehicle, the motor vehicle equity line of credit lender shall  
17 proceed to sell the pledged motor vehicle.

18 7. The motor vehicle equity line of credit lender shall  
19 sell the pledged motor vehicle in a commercially reasonable  
20 manner and in compliance with chapter 554, article 9, part 6.  
21 The proceeds of the sale shall be applied to the principal,  
22 interest, and all fees authorized by this chapter owed by the  
23 borrower to the motor vehicle equity line of credit lender,  
24 including the actual repossession costs and cost of the sale.  
25 Any surplus from the sale of the pledged motor vehicle shall  
26 be remitted to the borrower after such sale and shall not be  
27 retained by the motor vehicle equity line of credit lender.

28 8. Upon voluntary surrender of the pledged motor vehicle,  
29 the motor vehicle equity line of credit lender shall have no  
30 obligation to send a notice to cure default or notice of right  
31 to redeem to the borrower.

32 Sec. 14. NEW SECTION. 536B.14 PROHIBITED ACTIONS.

33 A motor vehicle equity line of credit lender shall not do  
34 any of the following:

35 1. Enter into a motor vehicle equity line of credit

1 agreement with a person less than eighteen years of age or a  
2 person who appears to be intoxicated.

3 2. Make any agreement giving the motor vehicle equity line  
4 of credit lender any recourse against the borrower other than  
5 the motor vehicle equity line of credit lender's right to take  
6 possession of the pledged motor vehicle and certificate of  
7 title upon the borrower's default or failure to redeem, and to  
8 sell or otherwise dispose of the pledged motor vehicle in  
9 accordance with the provisions of this chapter, except where  
10 the borrower prevented repossession of the vehicle, damaged  
11 the vehicle, or committed fraud.

12 3. Enter into a motor vehicle equity line of credit  
13 agreement in which the amount of money loaned, when combined  
14 with the outstanding balance of other outstanding motor  
15 vehicle equity line of credit agreements the borrower has with  
16 the same lender secured by any single certificate of title,  
17 exceeds three thousand dollars.

18 4. Accept any waiver, in writing or otherwise, of any  
19 right or protection accorded a borrower under this chapter.

20 5. Fail to exercise reasonable care to protect from loss  
21 or damage the certificate of title in the physical possession  
22 of the motor vehicle equity line of credit lender.

23 6. Purchase a pledged motor vehicle that was repossessed  
24 in the operation of the lender's business.

25 7. Maintain more than one motor vehicle equity line of  
26 credit office for each motor vehicle equity line of credit  
27 lender under each license, provided, however, any such motor  
28 vehicle equity line of credit lender may move a motor vehicle  
29 equity line of credit office as provided in this chapter.

30 8. Enter into a motor vehicle equity line of credit  
31 agreement unless the borrower presents a clear title to the  
32 pledged motor vehicle at the time that the loan is made, and  
33 such title is retained in the physical possession of the motor  
34 vehicle equity line of credit lender. If the motor vehicle  
35 equity line of credit lender files a lien against such motor

1 vehicle without possession of a clear title to the motor  
2 vehicle, the resulting lien shall be void.

3 9. Capitalize or add any accrued interest to the principal  
4 not otherwise allowed under this chapter.

5 10. Sell or otherwise charge for any type of insurance in  
6 connection with a motor vehicle equity line of credit  
7 agreement. Nothing in this subsection shall prohibit a motor  
8 vehicle equity line of credit lender from offering a borrower  
9 the option to purchase memberships in automobile clubs or  
10 associations, provided that the motor vehicle equity line of  
11 credit lender informs the borrower in writing that the  
12 membership is optional, that the membership can be purchased  
13 elsewhere, and that the purchase of the membership has no  
14 bearing on whether the borrower receives a loan.

15 11. Charge a prepayment penalty.

16 12. Require a borrower to provide any additional guaranty  
17 as a condition to entering into a motor vehicle equity line of  
18 credit agreement.

19 13. Use any collection tactics in violation of the federal  
20 Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq.,  
21 or any other applicable law.

22 14. Use any device or agreement, including an agreement  
23 with an affiliated motor vehicle equity line of credit lender,  
24 with the intent to obtain greater charges than otherwise would  
25 be authorized by this chapter.

26 15. Intentionally violate the provisions of this chapter  
27 or any rule adopted by the superintendent.

28 16. Violate any applicable provision of chapter 537 or  
29 chapter 554, article 9, part 6.

30 Sec. 15. NEW SECTION. 536B.15 CRIMINAL PENALTY.

31 A person who intentionally violates any provision of this  
32 chapter is guilty of a serious misdemeanor.

33 Sec. 16. NEW SECTION. 536B.16 VIOLATIONS -- LICENSE  
34 SANCTIONS -- CIVIL PENALTY.

35 1. The superintendent may, after notice and opportunity

1 for a hearing, suspend or revoke any license issued pursuant  
2 to this chapter if the superintendent finds that the motor  
3 vehicle equity line of credit lender has knowingly, or through  
4 lack of due care, done any of the following:

5 a. Engaged in conduct of a manner which would warrant the  
6 denial of an application for a license.

7 b. Refused to permit the superintendent to make any  
8 examination authorized by this chapter.

9 c. Failed to pay the annual license fee imposed by this  
10 chapter, or an examination fee imposed by the superintendent  
11 under the authority of this chapter.

12 d. Committed any fraudulent act.

13 e. Made a false statement in an application for a license  
14 under this chapter or failed to give a true reply to a  
15 question in the application.

16 f. Demonstrated incompetence or untrustworthiness to act  
17 as a motor vehicle equity line of credit lender in the opinion  
18 of the superintendent.

19 g. Violated any provision of this chapter or any rule  
20 adopted hereunder or violated any other law in the course of  
21 such motor vehicle equity line of credit lender's dealings as  
22 a motor vehicle equity line of credit lender.

23 2. If, after notice and opportunity for a hearing, the  
24 superintendent finds that a person has violated any provision  
25 of this chapter or any rule adopted hereunder, the  
26 superintendent may take any or all of the following actions:

27 a. Order the person to cease and desist violating the  
28 provision of this chapter or rule.

29 b. Require the refund of any fees collected by such person  
30 in violation of this chapter.

31 c. Order the person to pay the superintendent a civil  
32 penalty of not more than one thousand dollars for each  
33 transaction in violation of this chapter.

34 3. A motor vehicle equity line of credit lender shall have  
35 ten business days to request a hearing upon receiving a notice

1 of intent to suspend or revoke a license or issue a civil  
2 penalty from the superintendent. If requested, a hearing  
3 shall be held on written notice given at least twenty days  
4 prior to the date of the hearing and shall be conducted in  
5 accordance with chapter 17A.

6 4. The superintendent may enter into consent orders at any  
7 time with any person to resolve any matter arising under this  
8 chapter. A consent order shall be signed by all parties to  
9 the consent order, or a duly authorized representative, and  
10 shall indicate agreement to the terms contained therein. A  
11 consent order need not constitute an admission by any person,  
12 that any provision of this chapter, or any rule or order  
13 adopted or issued hereunder, has been violated, nor need it  
14 constitute a finding by the superintendent that such person  
15 has violated any provision of this chapter or any rule or  
16 order adopted or issued under this chapter.

17 5. Notwithstanding the issuance of a consent order, the  
18 superintendent may seek civil or criminal penalties concerning  
19 matters encompassed by the consent order.

20 6. In cases involving extraordinary circumstances  
21 requiring immediate action, the superintendent may take any  
22 enforcement action authorized by this chapter without  
23 providing the opportunity for a prior hearing, but shall  
24 promptly afford a subsequent hearing upon an application to  
25 rescind the action taken which is filed with the  
26 superintendent within twenty days after receipt of the notice  
27 of the superintendent's emergency action.

28 7. Any person aggrieved by the conduct of a motor vehicle  
29 equity line of credit lender under this chapter in connection  
30 with the motor vehicle equity line of credit lender's  
31 regulated activities may file a written complaint with the  
32 superintendent, who may investigate the complaint, and may  
33 pursue any other remedy available to the person allowed by  
34 law.

35 8. In the course of the investigation of a complaint, the

1 superintendent may do any of the following:

2 a. Subpoena witnesses.

3 b. Administer oaths.

4 c. Examine any individual under oath.

5 d. Subpoena the production of records, books, papers,  
6 contracts, or other documents relevant to such investigation.

7 9. If any person fails to comply with a subpoena of the  
8 superintendent issued pursuant to subsection 8 or to testify  
9 concerning any matter about which the person may be questioned  
10 under this chapter, the superintendent may petition any court  
11 of competent jurisdiction for enforcement.

12 10. The license of any motor vehicle equity line of credit  
13 lender under this chapter who fails to comply with a subpoena  
14 of the superintendent may be suspended pending compliance with  
15 the subpoena.

16 11. The superintendent may investigate and enforce any and  
17 all complaints filed by any person which are not criminal in  
18 nature, which complaint relates to the business of motor  
19 vehicle equity line of credit lending.

20 12. The superintendent, after notice and opportunity for  
21 hearing, may censure, suspend for a period not to exceed  
22 twelve months, or bar a person from any position of  
23 employment, management, or control of any motor vehicle equity  
24 line of credit lender, if the superintendent finds any of the  
25 following:

26 a. That censure, suspension, or bar is in the public  
27 interest and that the person has intentionally committed or  
28 caused a violation of this chapter or any rule or order of the  
29 superintendent.

30 b. Any of the following has occurred:

31 (1) The person has been convicted of, pled guilty to, pled  
32 nolo contendere to, or received a deferred judgment for any  
33 crime in this or any other state if the crime involved any  
34 offense reasonably related to the qualifications, functions,  
35 or duties of a person engaged in the business in accordance

1 with this chapter.

2 (2) The person has been held liable in any civil action by  
3 final judgment, or any order by any public agency, if the  
4 judgment or order involved any offense reasonably related to  
5 the qualifications, functions, or duties of a person engaged  
6 in the business in accordance with the provisions of this  
7 chapter.

8 13. Persons suspended or barred under subsection 12 are  
9 prohibited from participating in any business activity of a  
10 motor vehicle equity line of credit lender and from engaging  
11 in any business activity on the premises where a motor vehicle  
12 equity line of credit lender is conducting its business in  
13 this state. This subsection shall not be construed to  
14 prohibit a suspended or barred person from having personal  
15 transactions processed by a motor vehicle equity line of  
16 credit lender.

17 Sec. 17. NEW SECTION. 536B.17 RULEMAKING -- INSPECTION  
18 OF BOOKS AND RECORDS.

19 1. The superintendent may adopt reasonable rules in  
20 accordance with chapter 17A for the administration and  
21 enforcement of this chapter. A copy of any rule adopted by  
22 the superintendent shall be mailed to each licensee under this  
23 chapter at least thirty days prior to the effective date of  
24 the rule.

25 2. To assure compliance with the provisions of this  
26 chapter, the superintendent may examine the relevant business  
27 books and records of any motor vehicle equity line of credit  
28 lender. The superintendent may charge and collect reasonable  
29 and actual expenses for any compliance examination conducted  
30 under this chapter.

31 3. The superintendent is authorized to examine persons  
32 licensed under this chapter and persons reasonably suspected  
33 by the superintendent of conducting business which requires a  
34 license under this chapter, including all relevant books,  
35 records, and papers employed by such persons in the

1 transaction of the person's business, and to summon and  
2 examine witnesses under oath concerning matters relating to  
3 the business of such persons, or such other matters as may be  
4 relevant to the discovery of violations of this chapter,  
5 including the conduct of a business without a license as  
6 required under this chapter.

7 4. All books and records required to be preserved by this  
8 chapter or any rules of the superintendent or required by any  
9 federal statute, regulation, or regulatory guideline, as  
10 applicable to each motor vehicle equity line of credit lender,  
11 shall be preserved and made available to the superintendent as  
12 provided in this chapter, for a period of twenty-four months  
13 from the date the motor vehicle equity line of credit  
14 agreement was executed or the date the last payment was  
15 received, whichever is later. The motor vehicle equity line  
16 of credit lender may cause any or all records at any time in  
17 its custody to be reproduced and or preserved by the lender or  
18 by any other person who agrees in writing to submit its  
19 operations to the examination of the superintendent to the  
20 extent that such operations directly affect such  
21 recordkeeping. Any reproduced or preserved record kept by  
22 microphotographic process, or electronic or mechanical data  
23 storage technique, shall have the same force and effect as the  
24 original record and be admitted into evidence equally with the  
25 original. All records of a motor vehicle equity line of  
26 credit lending business shall be maintained separately by the  
27 motor vehicle equity line of credit lender from any other  
28 business in which the motor vehicle equity line of credit  
29 lender may engage.

30 Sec. 18. NEW SECTION. 536B.18 PREEMPTION OVER LOCAL  
31 ENACTMENTS -- CONFLICTING PROVISIONS.

32 1. An incorporated municipality, city, or county in this  
33 state shall not enact an ordinance or resolution or adopt any  
34 rules relating to this chapter. The provisions of any  
35 ordinance, resolution, or rules of any municipality, city, or

1 county relative to motor vehicle equity line of credit lending  
2 are superseded by the provisions of this chapter.

3 2. Notwithstanding any other provision of the Code to the  
4 contrary, this chapter shall apply to all motor vehicle equity  
5 line of credit agreements made in this state and shall govern  
6 in the event of any conflict with any other provision of law.

7 Sec. 19. NEW SECTION. 536B.19 APPLICABILITY.

8 The following entities, if incorporated under the laws of  
9 this or any other state or federal law, may engage in the  
10 business of motor vehicle equity line of credit lending and  
11 shall not be required to be licensed or regulated under this  
12 chapter:

- 13 1. A bank.
- 14 2. A savings and loan association.
- 15 3. A credit union.
- 16 4. An affiliate of a bank, savings and loan association,  
17 or credit union.

18 **EXPLANATION**

19 This bill provides for the licensing and regulation of  
20 motor vehicle equity line of credit lenders and agreements to  
21 be administered by the superintendent of banking and the  
22 superintendent of credit unions of the department of commerce  
23 pursuant to new Code chapter 536B. A "motor vehicle equity  
24 line of credit agreement" is defined by the bill as an  
25 agreement under which a lender extends an open-end credit plan  
26 or loan to a consumer secured by an interest in a motor  
27 vehicle and imposes interest on the outstanding unpaid  
28 balance. The bill provides for other definitions, including  
29 "borrower", "control", "controlling person", "lender", "motor  
30 vehicle", "motor vehicle equity line of credit lender", motor  
31 vehicle equity line of credit office", and "superintendent".

32 The bill requires any person engaging in the business of  
33 motor vehicle equity line of credit lending to obtain a  
34 license from the superintendent of banking or the  
35 superintendent of credit unions. The bill provides for

1 application requirements and proof of the applicant's net  
2 worth and financial responsibility. Each license applicant  
3 must include a filing fee in an amount up to \$1,000, an  
4 accounting balance sheet for the previous fiscal year, and a  
5 bond or letter of credit in the amount of \$25,000. The bill  
6 requires the superintendent to investigate all applicants and  
7 determine whether the applicant is qualified to receive a  
8 license. The bill requires a separate license for each motor  
9 vehicle equity line of credit office in this state, which must  
10 be renewed annually.

11 The bill requires motor vehicle equity line of credit  
12 lenders to provide notice to the superintendent prior to a  
13 change in the principal place of business and a change in  
14 control of the lender. The superintendent may deny a license  
15 to the new controlling person of the lender if the person  
16 fails to meet the requirements of new Code chapter 536B.

17 Motor vehicle equity line of credit lenders are required  
18 under the bill to follow certain reporting requirements and  
19 are required to keep records concerning each motor vehicle  
20 equity line of credit agreement executed by the lender. Each  
21 motor vehicle equity line of credit agreement is required to  
22 contain certain information concerning the motor vehicle  
23 pledged as security under the agreement, the borrower, the  
24 lender, and how to contact the superintendent. The agreement  
25 must also contain certain notices and be signed by the  
26 borrower and the lender.

27 The bill prohibits motor vehicle equity line of credit  
28 lenders from charging fees and interest above \$8 on each \$100  
29 increment of the remaining principal balance of the loan per  
30 each 30-day lending period. If an amount less than \$100 is  
31 borrowed, the maximum fees and interest shall be adjusted on a  
32 pro rata basis.

33 The bill provides that a motor vehicle equity line of  
34 credit lender may charge a borrower for expenses paid to  
35 record the lender's lien on the certificate of title to the

1 motor vehicle pledged as security, and for expenses for  
2 repossession and the sale of the motor vehicle. The bill  
3 requires the superintendent to adopt rules to require each  
4 motor vehicle equity line of credit lender to use a standard  
5 disclosure form to ensure compliance with federal truth-in-  
6 lending laws.

7 The bill provides for certain rights and responsibilities  
8 of the borrower such as a right of redemption and a  
9 requirement to make a principal reduction payment each payment  
10 period. If a borrower fails to make a payment due or  
11 otherwise breaches the motor vehicle equity line of credit  
12 agreement, the lender may declare the borrower to be in  
13 default of the agreement and must attempt to contact the  
14 borrower to warn the borrower of the default. After serving a  
15 notice to cure to the borrower, the lender may repossess the  
16 pledged motor vehicle. After repossession, the lender shall  
17 mail a notice of right to redeem to the borrower. If the  
18 borrower fails to redeem the motor vehicle, the lender shall  
19 sell the motor vehicle in a commercially reasonable manner and  
20 remit any surplus funds to the borrower.

21 The bill prohibits motor vehicle equity line of credit  
22 lenders from entering into agreements with persons less than  
23 18 years old or persons who appear intoxicated. The bill also  
24 prohibits lenders from making an agreement for additional  
25 recourse against a borrower other than repossession and from  
26 making an agreement for an amount exceeding \$3,000. Lenders  
27 under new Code chapter 536B are prohibited from accepting a  
28 waiver of any borrower right and from purchasing a repossessed  
29 pledged motor vehicle from a borrower. Lenders may only enter  
30 into a motor vehicle equity line of credit agreement for a  
31 borrower who has clear title to the pledged motor vehicle and  
32 are restricted from selling insurance in connection with such  
33 an agreement. A lender may not charge a prepayment penalty  
34 and cannot use any collection tactics in violation of federal  
35 law. Lenders must comply with all applicable requirements of

1 the Iowa consumer credit code and the provisions of the U.C.C.  
2 that pertain to repossession of personal property.

3 A person who violates any provision of new Code chapter  
4 536B is guilty of a serious misdemeanor. A serious  
5 misdemeanor is punishable by confinement for no more than one  
6 year and a fine of at least \$250 but not more than \$1,500.

7 The superintendent may suspend or revoke a license issued  
8 under new Code chapter 536B for certain acts and violations of  
9 new Code chapter 536B, after providing notice and an  
10 opportunity for a hearing. The superintendent may also issue  
11 a cease and desist order, require the refund of fees, and  
12 order a person to pay a civil penalty in an amount up to  
13 \$1,000 per violation of new Code chapter 536B, after providing  
14 notice and an opportunity for a hearing. The superintendent  
15 may take complaints of alleged violations of new Code chapter  
16 536B and subpoena witnesses and documents. After notice and  
17 opportunity for a hearing, the superintendent may censure,  
18 suspend, or bar a person from a position with a motor vehicle  
19 equity line of credit lender for a violation of new Code  
20 chapter 536B or a rule adopted pursuant to new Code chapter  
21 536B. The bill provides that the superintendent may adopt  
22 rules, a copy of which must be mailed to each licensee. The  
23 superintendent may examine the books and records of a lender.

24 The bill provides that the requirements of new Code chapter  
25 536B do not apply to a bank, savings and loan association,  
26 credit union, or an affiliate thereof, that is organized  
27 pursuant to the laws of this state, any other state, or by  
28 federal law.

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