STATE OF IOWA - DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

CONSUMER PROTECTION DIVISION

CONSUMER CREDIT PROTECTION BUREAU

THOMAS J. MILLER
Attorney General

1979 CONSUMER CREDIT CODE REPORT

THOMAS J. MILLER
ATTORNEY GENERAL
DOUGLAS R. CARLSON
ASSISTANT ATTORNEY GENERAL IN CHARGE
KATHRYN L. GRAF
ASSISTANT ATTORNEY GENERAL
TAM B. ORMISTON
ASSISTANT ATTORNEY GENERAL
FRANK THOMAS
ASSISTANT ATTORNEY GENERAL
PATRICIA J. MC FARLAND
ASSISTANT ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Department of Justice

ADDRESS REPLY TO:
CONSUMER PROTECTION DIVISION
HOOVER BLDG., SECOND FLOOR
1300 EAST WALNUT
DES MOINES, IOWA 50319
515/281-5926

January 10, 1980

TO: Members of the General Assembly

We are pleased to submit to you the Attorney General's "1979 Consumer Credit Code Report" as required by the provisions of Section 537.6104(5), Code of Iowa 1979. This report outlines in detail the actions we have taken in regard to administering, enforcing and interpreting the Iowa Consumer Credit Code during the calendar year 1979. In addition to reporting on our 1979 activities, we have also included some recommendations for legislative changes and additions to the ICCC.

The "Consumer Credit Protection Bureau" established by the ICCC operates as part of the Attorney General's Consumer Protection Division. During 1979, both the Division and Bureau have operated under the supervision of Assistant Attorney General in Charge Douglas R. Carlson.

During the year, we have engaged in substantial activity in connection with the handling of the ICCC questions and complaints, litigating important consumer credit cases and interpreting the Credit Code by the issuance of formal and informal opinions. The sections of this report treat each of these specific areas in detail.

Much of the credit for our ongoing efforts in the Consumer Credit Code area and for the preparation of this report should go to Mr. Carlson and Assistant Attorneys General Tam B. Ormiston and Patricia J. McFarland of the Consumer Protection Division.

THOMAS J. MILLER
Attorney General of Iowa

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I. INTRODUCTION

The purpose of this section is to give the reader a brief history of the Iowa Consumer Credit Code (ICCC) and some preliminary information concerning its administration and enforcement.

The ICCC was enacted by the Second Session of the 65th General Assembly in 1974 and is now Chapter 537, Code of Iowa 1979. The Code names the Attorney General or his designee as the "Administrator." It also establishes a "Consumer Credit Protection Bureau" to be operated by the Attorney General for the handling of complaints, investigations, litigation, opinions and general educational activity.

Throughout the years, the Attorney General has delegated the primary authority for the administration and enforcement of the ICCC to the Consumer Protection Division. Since 1974, the activities of the legislatively mandated "Consumer Credit Protection Bureau" have been directed within the Consumer Protection Division by the Assistant Attorney General in Charge of the Division. Staff time for handling matters arising under the ICCC has been obtained from several different attorneys in the Consumer Protection Division. Currently, the staff of the Attorney General's Office devotes approximately the time of one attorney per year to ICCC matters.

This report is made pursuant to the requirements of Section 537.6104(5), which directs the Attorney General to report annually to the General Assembly on the operation of the Consumer Credit Protection Bureau and the other agencies of the State charged with administering the Act. The report is broken down into separate sections containing specific information on activities in such areas as complaints, litigation, opinions and educational activities. Other sections cover related activities of other Iowa agencies, the status of credit in Iowa and the activities of other states with versions of the Uniform Consumer Credit Code (UCCC). Other sections discuss some of the areas that will be addressed in the future by rules and regulations or that perhaps need legislative action. Finally, the report discusses the needs of the Attorney General's Office if it is to have an effective and active Consumer Credit Protection Bureau.

IMPORTANCE OF THE ICCC

The Iowa Consumer Credit Code was adopted to establish a comprehensive set of standards and guidelines for a uniform consumer credit law. It sets disclosure requirements while at the same time it regulates the substantive aspects of the transaction. Provisions of the Code unify maximum rate and charge ceilings, curtail certain creditor collection techniques, and generally govern the application and structure of consumer credit transactions.

In Iowa the Legislature adopted the Uniform Consumer Credit Code and designed its interaction with existing statutes in the areas of banking, small loans, industrial loans, credit unions, savings and loans, and the general usury statute. While these credit statutes were retained, they were made to conform and coordinate with specific aspects of the ICCC.

A consumer credit transaction is clearly defined by the ICCC. It may be a consumer loan, a consumer credit sale, or a consumer lease. A consumer credit sale is the sale of goods, services or interest in land in which credit is granted by a seller who is regularly involved in the extension of credit when it is made to an individual primarily for personal, household, family or agricultural purposes. Also, the debt must be payable in installments or a finance charge made and the total amount must be under $35,000. A consumer loan is defined in a similar fashion. A consumer lease is a lease of goods by a lessor regularly engaged in leasing and to an individual primarily for personal, household, family or agricultural purposes. The lease must be for a term exceeding four months.

Generally, any transaction entered into or modified in this state is covered. Also, if the contracting party is an Iowan or if the lender has a significant contact with Iowa, then the ICCC is the governing law.

The ICCC is an extensive and complex body of law. Many questions have arisen concerning its meaning in particular situations. It has been difficult at times to answer these questions, both because of staff limitations and because some

provisions of the Code are vague and others seem to require a result that probably was not intended by the Legislature.

Because there are so many varied requirements in the law and because of the difficulty in determining what one's obligations are, it is likely that many of those engaged in providing credit violate one or more provisions of the Act during their day-to-day activities. It would require a diligent effort on the part of the average small businessman to avoid violating some provision of the ICCC in connection with credit, interest rate and debt collection practices.

It is the general opinion of the office that many such violations are inadvertent rather than intentional. Although a violation may be inadvertent, the rights of the consumer nevertheless must be protected and proper adjustment must be made. Because many violations are inadvertent, however, we frequently attempt informal methods of effecting compliance. Often the inadvertent violation is "cured" by agreement. If the violation appears to be intentional, more vigorous enforcement action is taken.

The provisions of Section 537.6104 place certain powers and duties upon the Attorney General as Administrator of the ICCC. The statute prescribes that the Attorney General shall receive and act on complaints, shall take action designed to obtain voluntary compliance with the provisions of the statute, shall commence enforcement proceedings, shall counsel persons and groups on their rights and duties under the statute and shall establish consumer education programs. Other provisions

require the Administrator to keep rules and regulations, as much as possible, in harmony with other jurisdictions who have adopted the Uniform Consumer Credit Code.

In connection with "supervised financial institutions," such as banks, small loan companies, industrial loan companies, credit unions and savings and loans, Section 537.6105 provides that the designated agency has supervisory control and that the Attorney General as Administrator has certain control to ensure that the supervised entity does not violate the statute. The Code envisions cooperative enforcement efforts between the Administrator and the supervisory agencies.

The ICCC establishes many of its own procedures and also incorporates the provisions of the Iowa Administrative Procedures Act. The Administrator may proceed directly to the District Court to halt violations of the statute. Remedies available are temporary and permanent injunctions, restitution and a $5,000 civil penalty when the statute has been willfully and repeatedly violated. The statute thus embodies a true "consumer protection" enforcement concept by providing not only measures to halt violations but also by providing direct Administrator authority to obtain redress for injured consumers.

Because of the complexities of the statute and its overwhelming impact upon lending, interest rate and debt collection practices in the state, certain practical aspects of administration and enforcement have emerged over the years. The first is that in the administration of the ICCC the Attorney General's Office has concentrated on consumer and creditor education. The office feels that it is important to assist Iowans in

avoiding problems that often arise out of confusion, misunderstanding and incorrect interpretations of the ICCC.

Conversely, the office has not yet concentrated on litigation except in very important cases with statewide application both as to affected consumers and the regulated industries involved. Generally, the administrative policy has tended to be mediational with the goal of solving problems at the administrative level and avoiding litigation especially because of the exceptionally large number of potential violations and the limited staff available to handle enforcement actions.

The office has attempted to maintain an objective viewpoint when complaints are filed and to maintain lines of communication with both the supervisory state agencies and supervised financial institutions. In attempting to achieve an informal solution to most cases, our office has received excellent cooperation from the supervising agencies.

II. COMPLAINTS

The provisions of Section 537.6104(1)(2) establish as one of the responsibilities of the Administrator the handling of consumer complaints. Coupled with this are the provisions of Section 537.6104(1)(b) establishing the goal of encouraging voluntary compliance with Code requirements. The office has engaged in a conscientious effort to combine these two areas and has shaped almost all complaint handling activities toward the goal of voluntary compliance.

The Consumer Protection Division of the Attorney General's Office received a total of 9,303 written consumer complaints during the calendar year 1979. Since the Consumer Credit Protection Bureau functions as a unit of the CPD, the processing, assignment and handling of ICCC complaints has become part of the daily activity of the Division. Five hundred and twenty-five of the complaints received in 1979 were filed pursuant to the provisions of the ICCC. Thus, for 1979, Credit Code complaints constituted 5.6 percent of the total received by the division.

In analyzing the top ten categories of consumer complaints, Credit Code complaints ranked third following only automobile and mail order complaints and thus must be regarded as an area of major concern.

BREAKDOWN OF CREDIT CODE COMPLAINTS

1.	Complaints about interest rates.....	46
2.	Complaints about other loan charges.....	52
3.	Complaints about contract clauses.....	17
4.	Complaints about collateral and security requirements.....	5
5.	Complaints about the lack or misuse of the required cure notice.....	7
6.	Complaints about truth-in-lending disclosures..	3
7.	Complaints about holder in due course or contract assignment problems.....	4
8.	Complaints about debt collection practices	275
9.	Complaints involving miscellaneous other ICCC areas.....	116
	TOTAL.....	525

Complaints concerning debt collection practices continue to appear with greatest frequency. In line with the policy of mediating such complaints, the office has tried to resolve complaints at the administrative level, obtain redress for any aggrieved consumer and stop any problem practices. Litigation in this area is only rarely practical because suits would have to be brought in the various District Courts throughout the state in which the practices occurred, and would thus involve a substantial commitment of attorney resources.

The provisions of Article 7 of the ICCC set forth with impressive thoroughness exactly what debt collection techniques, practices and procedures are prohibited by the statute. Most debt collection complaints are filed by the borrowing public who believe that they have been aggrieved by an unlawful debt collection practice. Generally, the office has resolved the problem by an informal agreement with the lender or debt collector. In the case of a clear violation of the statute, the office requires not only redress for the aggrieved consumer but usually a letter of agreement from the respondent clearly stating that they have been notified as to what is wrong with the practice that they have been using and they are agreeing to discontinue it.

In many instances the respondent is able to demonstrate either that there has been no violation of Article 7 or that if there has been it was unintentional and the respondent is desirous of complying with the statute. Unfortunately, the

office does occasionally obtain evidence of fairly "vicious" unlawful debt collection practices reported from different parts of the state. The office may engage in at least a few enforcement actions each year to insure that Iowa lenders and debt collection agencies keep their debt collection practices in compliance with the ICCC.

The second area of concentration of Credit Code complaints involves complaints about interest rates (46 for the year) and complaints about other charges that are added to or assessed on loans (50 for the year). Some such complaints are based on what apparently is confusion about the average daily balance computation of the interest rate on revolving open-end credit accounts established by Section 537.2402. Sometimes it is the lender that does not understand how to properly compute such interest and sometimes it is the complainant who does not understand that the interest is being added to his account correctly.

A number of complaints received by the office are based upon problems arising from the actual posting of charges on major credit cards. Different companies have different methods of posting, take different time periods to so post, all of which result in quite a bit of confusion to the consuming public in this day of mass credit card usage.

Other complaints involve problems that occur when loans have been prepaid. Since various methods are used to assess the actual amount due, occasionally discrepancies occur in regard to the amount of proper interest refunds. Sometimes

similar questions arise when insurance is involved with the loan and the prepayment involves a cancellation of the policy and a rebate of part of the insurance premium.

The office has found that many of the complaints received are answered by explanations of the applicable provisions of the statute to those involved in the complaint. Other times the office must first investigate the complaint and determine the exact facts involved in order to outline to the parties how the law applies to the facts of their specific situation.

In addition to the formal written complaints received by the office, the day-to-day work of the attorneys working on ICCC problems includes a great deal of interaction with the borrowing public, credit industry, attorneys and other state agencies. Numerous telephone calls, letters, informal interpretations, responses and resolutions are necessary in the day-to-day activities of the office as part of the total administration of the ICCC.

III. LITIGATION

During 1979, three major lawsuits relating to the Iowa Consumer Credit Code were completed by the Attorney General's Office. All three had been carefully designed to help establish exact judicial interpretations of certain aspects of the ICCC. One of the cases was decided by the Iowa Supreme Court, the second by the 8th Circuit Court of Appeals in St. Louis and the third case by the United States Supreme Court.

STATE VS. BANK AMERICARD

In 1974, the State filed suit against a Nebraska company known as First of Omaha Service Corporation, a subsidiary of the First National Bank of Omaha. First of Omaha Service Corporation and First National Bank of Omaha were involved in the issuance of Bank Americards throughout an area including Des Moines by an associated bank, Central National Bank and Trust Company.

The main issue was whether the then newly instituted ICCC required compliance by a Nebraska national bank with the interest rate set by the ICCC. If so, Iowans would pay a lower rate of interest on their Bank Americard than the rate sought to be imposed by the Nebraska issuer in compliance with higher rates allowed by Nebraska law.

The litigation of this case was long and complex. The case was tried in Polk County District Court and the court ruled in favor of the State that Iowa law did apply. After a conflicting ruling by a United States Circuit Court of Appeals in a different case, the defendants had the Iowa case reopened. The Polk County District Court reversed its decision, ruling that because the defendants included a nationally chartered bank that the provisions of the National Banking Act gave them a "superior position" and would allow them to charge the higher rate of interest allowed by Nebraska law. The main point of the ruling

was that the National Banking Act took precedence over the ICCC.

The Attorney General appealed this decision to the Iowa Supreme Court and the Iowa Supreme Court reversed. The Iowa Supreme Court ruled the ICCC was applicable to these defendants and that they had to charge interest rates in compliance with the interest rates set by the ICCC for the protection of Iowa residents. The defendants appealed directly to the United States Supreme Court.

On December 18, 1978, the United States Supreme Court decided a similar Minnesota case in favor of Bank Americard. The court held that Section 85 of the National Banking Act pre-empted state law and allowed a national bank to charge all its customers, even those located in other states, the interest rate specified by the state in which it was located. For practical purposes, the ruling by the United States Supreme Court in the Minnesota case was dispositive of the Iowa Bank Americard case.

The United States Supreme Court remanded the case to the Iowa Supreme Court. On July 25, 1979, the Iowa Supreme Court vacated its earlier decision in the state's favor and affirmed a summary judgment for First of Omaha Service Corporation and Bank Americard. It is now clear that an out-of-state NATIONAL bank does not have to comply with the interest rates set by the ICCC when extending consumer loans to Iowa residents. This ruling does not apply to banks that are not national banks and does not apply to other lenders such as loan companies or mail order companies selling on credit.

STATE VS. NATIONAL FARMERS ORGANIZATION

Another major ICCC lawsuit was filed in 1976, against the National Farmers Organization of Corning, Iowa. The NFO sold memberships to Iowa farmers to further their collective bargaining concepts. The petition filed by the Attorney General alleged violations of the ICCC claiming that the NFO failed to properly inform members of contract cancellation provisions, that membership dues could be raised without notice and that certain basic misrepresentations were made. The most important allegation in the case was that debt collectors employed by the NFO were violating the debt collection requirements of Article 7 of the ICCC. In June of 1978, the District Court ruled in favor of the defendant. The District Court held that the provisions of the ICCC did not apply to membership agreements in voluntary associations. The Attorney General's Office appealed the District Court decision to the Iowa Supreme Court.

On May 30, 1979, the Iowa Supreme Court upheld the lower court decision although the grounds set forth in the Supreme Court's opinion were somewhat different. The Supreme Court found that although a debt existed to the NFO from its members for dues uncollected, there had been no true extension of credit as defined by the ICCC. Consequently, the court held that since there had not been an "extension of credit," the debt collection provisions of Article 7 did not cover the transactions involved in the debt collecting efforts between NFO and its members. The decision holds that even though a company

may be using debt collection practices which violate the ICCC, such practices cannot be prosecuted unless there first exists an "extension of credit."

ALDENS, INC., VS. STATE OF IOWA

The most recent decision interpreting the ICCC was in Aldens, Inc., vs. State of Iowa. The plaintiff, Aldens, Inc., is a Chicago-based mail order company selling mail order merchandise to many Iowa residents on credit. In fact, in evidence submitted in 1978, Aldens indicated that at that time they had approximately 20,000 Iowa credit customers.

The point of conflict in this case was that the ICCC requires on such revolving charge accounts in amounts up to $500, the maximum interest rate is 18 percent per year. Aldens was charging the rate allowed by Illinois law of 21 percent per year for amounts up to $350. In 1974, the Attorney General notified Aldens that its interest rate was in conflict with the ICCC and would have to be brought into compliance or litigation would be initiated.

On July 12, 1974, Aldens, Inc., filed suit against the State of Iowa in the United States District Court for the Southern District of Iowa. The case sought a ruling that Aldens should be allowed to charge the higher Illinois rate. The State of Iowa also filed suit against Aldens in the District Court of Polk County, Iowa charging that Aldens, Inc., was in violation of the interest rate provisions of the ICCC and asking that they be permanently enjoined from continuing such usurious interest rates.

In 1976, a temporary injunction was issued requiring Aldens to alter their rates to comply with Iowa law during the pendencies of the two lawsuits. Although the difference between the 18 percent allowed in Iowa and the 21 percent that Aldens sought to impose for the first $350 may sound minimal, it is not. Evidence submitted by Aldens in 1978 indicated that if allowed to charge the higher rate of incerest, that computing from the Iowa credit accounts they had pending at that time they would be able to collect over $81,000 per year in additional interest charges.

In March of 1979, the United States District Court for the Southern District of Iowa ruled in favor of the State of Iowa. The court found that the state had a historic right to prevent its citizens from being charged usurious rates of interest. Aldens appealed this decision to the United States 8th Circuit Court of Appeals in St. Louis, Missouri.

On December 7, 1979, the 8th Circuit affirmed the District Court decision and strongly ruled in favor of the Attorney General's position. This landmark decision reaffirms the right of the State of Iowa to prevent certain out-of-state lenders from extracting usurious rates of interest from its citizens. The most important aspect of this decision is that it applies to all out-of-state companies who sell to Iowans on credit. The decision could well result in Iowans saving literally hundreds of thousands of dollars each year

as all of the many mail order companies selling to Iowans on credit will have to bring their interest rate charges into compliance with the ICCC.

IV. OPINIONS

During 1979, the Attorney General issued three formal opinions dealing directly with the ICCC.

In April of 1979, the office issued an opinion in regard to the permissable rate of interest on money due on pre-computed small loans that have matured. The question addressed was whether the interest rate on the amount remaining unpaid was covered by the usury statute, Chapter 535, or the Iowa Small Loan statute, Chapter 536. Before the opinion was issued, some small loan companies had taken the position that the higher rates of interest authorized by Chapter 536 could be applied even after the loan had reached maturity.

The opinion ruled that the annual rate of interest permissable under Section 536.13(4) is no longer applicable when the loan reaches maturity because there is no provision within the small loan statute for the assessment of that rate of interest beyond the term of the loan. The opinion ruled that the rate of interest on such a remaining balance was established by the usury statute.

The opinion also points out that the small loan statute specifically incorporates certain sections of the ICCC, including those sections dealing with late payment deferral charges. The result is that parties to a pre-computed small loan may reach

several agreements as to what actions may be taken in the event of default at the maturity of the loan. The four different options open are:

1. Pursuant to the provisions of Section 537.2502(1) the creditor may, by written agreement of the debtor, assess a delinquency penalty in the amount of 1 1/2 percent per month or a total of $5 per installment.

2. Pursuant to the provisions of Section 537.2503, the parties may, by written agreement, agree that the installment or maturity date be deferred with a deferral charge of up to 1 1/2 percent per month.

3. Upon maturity of the note, if the creditor does not wish to defer the loan payments as above, the creditor can under the provisions of Chapter 535 assess an interest rate of 5 percent per year where there is no written agreement with the debtor.

4. If the creditor has a written agreement with the debtor, the creditor may charge an interest rate in compliance with Section 535.2(b) which is the floating interest rate determined each month by the Superintendent of Banking.

The office believes that this opinion removed considerable confusion concerning allowable interest rates on balances remaining unpaid on matured pre-computed small loans.

In July of 1979, the office issued an opinion to the Industrial Loan Division of the Auditor's Office in regard to maximum finance charges on mobile home sales. The opinion held that the maximum finance charge set by Section 537.2602

applied to mobile home "loans" as defined by the Code but did not apply to the consumer credit sales of mobile homes which are covered by Section 537.2201.

The result is that the maximum finance charge that may be applied to a credit sale of a new mobile home is 15 percent under Section 537.2201. However, the maximum finance charge that could have been applied on a loan for a mobile home was tied to the floating usury rate of Section 537.2602. The distinction between loans and credit sales of mobile homes and the resulting differences in financing charges that could be applied no longer exists because Section 537.2602 was repealed, effective July 1, 1979, by Section 30 of House File 158.

In August of 1979, the office issued an opinion ruling that interest rates exceeding 5 percent can be charged only pursuant to a bilateral written agreement between the parties. The "bilateral written agreement" must be entered into prior to or at the time of the extension of credit.

This opinion had a far-reaching effect upon retailers and other "non-supervised" creditors. For years it has been a quite common practice in Iowa for creditors such as doctors, dentists, retail stores, plumbers, electricians, etc., to assess a delinquency charge on purchases not paid within thirty days. Typically, there was not any written agreement specifying the time period for payment other than occasionally "due in thirty days." Many creditors commonly imposed a late charge of 1 1/2 percent per month or 18 percent per year. The ruling

that 5 percent was the maximum charge that could be applied on such debts, caused considerable furor because the allowable "monthly" rate is only four-tenths of one percent per month.

The office received many complaints and questions from both creditors and consumers in response to this opinion. Many consumers sent in billing notices assessing the 1 1/2 percent per month interest rate. Often, the interest rate was simply stamped at the bottom of the invoice.

Many of the calls the office received after the issuance of this opinion were from creditors wanting to know the requirements for an acceptable bilateral written agreement setting interest rates. Many farm-related creditors seem to be among the most severly affected since, historically, they have dealt with farmers on a very informal basis, sometimes only over the telephone. Many creditors also inquired about the maximum interest rates that could be charged if their particular transactions were properly set up to do so..

The volume of calls indicates that many businesses are trying to comply with the requirement of an advance bilateral written agreement. However, the office does have information to indicate that many creditors are still unilaterally charging interest rates above 5 percent per year, in violation of the usury statute.

In the past, many individuals have confused the charging of interest on such unpaid bills with the adding on of interest

on revolving charge accounts which can impose interest rates up to 18 percent a year up to $500. The issuance of this opinion clarified that on all accounts that did not have a proper bilateral written agreement, the interest rate requirements that would govern are the provisions of the Iowa usury statute, Chapter 535 and not the ICCC, Chapter 537.

This same opinion also dealt with the applicability of the ICCC to the sale of insurance. Essentially, Section 537.1202 excludes the sale of insurance from the ICCC in situations where the insured may cancel a policy at the end of any payment period and where the insurer may cancel the policy after non-payment of a premium. Of course, exclusion from the ICCC means interest on balances remaining unpaid can only be charged at the lower usury rate.

The insurance industry argued that insurance agents do not sell insurance but simply sell their services. Therefore, their sales transactions do not fall within the exclusion of Section 537.1202 and they could impose the higher ICCC rates. This office rejected the argument that insurance agents were not involved in the sale of insurance.

There are also two pending opinion requests dealing with ICCC questions. One such request poses the question of whether interest rates on leases are subject to the provisions of the usury statute or the provisions of the ICCC. This opinion is expected to be issued in January.

The second pending ICCC opinion request is from the State Department of Banking, asking five questions relating to the

$35,000 limitation on consumer credit loans and open-end accounts. Although the formal opinion has not yet been issued (it will be issued in January), the office did respond informally to the Banking Department on October 25, 1979, on the most important of the five questions posed.

One question was whether all loans by a particular financial institution to an individual or to a husband and wife must be aggregated for the purpose of applying the $35,000 ceiling. The office's informal position is that each loan should be considered separately for the purpose of determining whether the $35,000 limitation of Section 537.1301(15)(5) is exceeded. This position is contrary to an earlier Attorney General's policy statement concluding that Section 537.3304(2) required that all loans to an individual or family from one financial institution must be aggregated for the purpose of determining whether the $35,000 limitation has been exceeded.

The provisions of Section 537.3304(2) provide, "With respect to a supervised loan, a lender may not use multiple agreements with intent to obtain a higher finance charge than would otherwise be permitted." For the purpose of that section, multiple agreements exist whenever the lender allows a person to become obligated in any way under more than one loan agreement with the lender. In proceeding to reverse the earlier policy statement, the office has considered the "intent" factor set forth in the statute. It clearly is important whether the multiple agreements were executed with the "intent"

of obtaining the higher interest rate. Since "intent" is one of the elements of the language of the statute, the office feels that each case must be examined separately to ascertain whether the existence of the required intent to obtain the higher interest rate is present.

The immediate response from the lending industry is that more loan money will be available to consumers because lenders will be allowed to charge a 15 percent finance charge on each consumer credit loan under $35,000 even though the aggregate of the loans may exceed $35,000.

The Department of Banking has also asked how this question would be answered if, instead of referring to separate loans under $35,000, it referred to separate charges or "takedowns" of less than $35,000 each pursuant to a single line of credit in excess of $35,000. The position the office plans to take on this question is that the upper limit of credit specified in an open-end account agreement will determine whether the transaction falls within this provision of the ICCC. If the lender agrees to extend more than $35,000 pursuant to an open-end credit agreement, then the entire account will be excluded from the ICCC and the interest rate of the usury statute will apply.

The Banking Department has indicated that such a response will have a negative effect on the availability of credit to Iowa farmers. They point out that farmers have been encouraged to project their credit needs by estimating all anticipated expenses with regard to machinery, feed, livestock, etc. It has been a general practice among lenders to extend one line

of credit to cover all anticipated farm expenses so that the farmer does not have to sign a separate note each time more funds are needed. The Banking Department is concerned that if credit lines are discontinued by lenders, farmers will have to resort to many individual loans which may ultimately have the effect of discouraging advance financial planning.

In addition to issuing formal opinions, the office also issues a great many informal advisory opinions. Pursuant to the provisions of Section 537.6101(1)(b) the Attorney General has the duty to advise persons of their rights, duties and obligations under the ICCC. Pursuant to this obligation, the office responds to a great many telephone calls and letters asking for advice on specific ICCC matters. Such informal advisory contacts with the general public and with lenders and Iowa attorneys occur about a dozen times each working day. In 1980, the office intends to issue formal rules to process more uniformally informal advisory requests submitted pursuant to Section 537.6101(1)(d) of the ICCC.

V. EDUCATIONAL ACTIVITIES

The ICCC requires five primary activities of the Administrator. One of those, mandated by Section 537.6104(e) is establishment of educational programs with respect to credit practices and problems. It has been the belief of the office that with little staff to devote to ICCC matters, a top priority must be the education of the consuming public, the lending

industry and members of the Bar in regard to the many provisions of the Act.

The office's educational efforts have been on a formal and an informal basis. The most recent formal ICCC presentation was the "Consumer Credit Code Conference" held at Morningside College in Sioux City on December 15, 1979. A presentation was submitted on behalf of the Attorney General's Office and presentations were made by a university professor and a member of the private bar. The program concentrated on the history and background of the ICCC, its interaction with present federal and state statutes, recent case law in the area and the role of the Iowa Attorney General's Office in administering the ICCC.

The conference was attended by persons from the credit industry, members of the business community and private attorneys. The exchange of information was welcomed by those present and it is hoped that the office's continued participation in such educational conferences will educate as many individuals and businesses as possible about the ICCC.

During August, the office participated in the "Annual Small Business Day" at Buena Vista College in Storm Lake. This conference considered problems and issues pertinent to small businesses and their dual roles as both borrowers and lenders. The application of the ICCC was explained by a representative of the Attorney General's Office. This was an opportunity to meet directly with many individuals whose businesses are directly affected by the ICCC yet who are not very sophisticated in the credit area. These persons may need this educational

contact even more than members of regulated financial institutions who deal with ICCC problems daily.

The "Third Annual Institute of Administrative Law" was sponsored in September in West Des Moines by the "Iowa Association of Hearing Officers." This meeting provided a forum for the discussion of the administrative role of the Attorney General in the enforcement of the ICCC. The Institute also dealt with the interaction between the ICCC and the Iowa Administrative Procedures Act. Attended largely by hearing officers and administrative law personnel, it afforded a good opportunity to define more clearly the administrative functions of the Attorney General within the framework of both the ICCC and the IAPA.

In a less formal manner, the office has participated in a variety of consumer oriented conferences, seminars, meetings and speaking presentations. These have included the spring meeting of the "Iowa Chapter of the National Council on Home Improvement," "Consumer Product Safety Commission Seminar," presentations to law school classes, high school classes and educational speeches to senior citizens' groups.

In addition to the above educational programs and presentations that were focused strictly on the ICCC, the office also had numerous other consumer and business contacts throughout the state. On a regular basis, the attorneys and investigators in the Consumer Protection Division fulfill speaking engagements around the state on the general topic of "Consumer Fraud and Protection in Iowa." Although these presentations deal more

generally with the overall work of the Consumer Protection Division, they also always briefly discuss the basic provisions of the ICCC and quite often respond to specific ICCC questions from members of the audience. During 1979, staff members of the division made approximately 55 such speaking presentations throughout Iowa to groups ranging from 20 to 800 individuals.

As another educational activity, the office sets up a "Consumer Protection Booth" each year at the Iowa State Fair, the Clay County Fair, the Waterloo Cattle Congress and at a number of energy fairs, malls and other locations. The booth has been staffed by the Consumer Protection Division and the Farm Division. Many of the educational materials presented in the booth and many of the questions asked by members of the public coming into the booth bear upon general questions pertaining to the Consumer Protection Division and the Farm Division. However, those staff members operating the booth have reported receiving a great many ICCC questions.

The many ICCC related questions posed to staff members during all these public contacts shows that there is still a great deal of confusion about the ICCC and even stronger educational activities are needed. In the past, the office has considered the idea of a "Mobile Consumer Protection Office" where an attorney, an investigator and a secretary would travel to various parts of the state. They would set up an office for from one to three days to identify the public's problems in that particular area. In addition to seeking information as to

general consumer fraud problems, such a mobile office unit could also deal with local businesses and regulated industries to consider their problems with the ICCC. Currently, staff limitations have prevented the implementation of this idea.

Staff members also have informal discussions and meetings with affected individuals. It is not uncommon for businessmen or members of the credit industry to come into the office with their attorneys to ascertain just what they must do to comply with specific ICCC provisions. Staff members regularly respond to questions posed by other state agencies concerning the interpretation and application of the ICCC and their specific regulatory duties thereunder.

Because education can smooth the way to a broader understanding and more efficient administration of the ICCC, it is the opinion of the office that in the future more emphasis should be placed on education. In the coming year, it is the hope of the office to participate in more programs on the ICCC. In the long run, the office believes that a good educational program can effectively reduce ICCC problems and result in continual improvement of its administration.

VI. OTHER STATE AGENCIES

The provisions of Section 537.6104(5) require the Administrator of the ICCC to include in this report information on the operation of all other state agencies charged with specific regulatory duties. Pursuant to requests from the Administrator, the following have submitted their reports:

1. Department of Banking

   Superintendent of Banking

2. Department of Banking

   Small Loan Division

3. Auditor of State

   Industrial Loan Division

4. Auditor of State

   Savings and Loan Association

5. Credit Union Department

These five reports summarize the consumer credit activities of each of the agencies. (Copies of each are attached in the appendix.)

Generally, information from the five reports indicate that the total dollar amount of credit outstanding to Iowans during 1979 has increased from 1978 figures. The consensus of the five agencies and this office seems to be that credit continues to remain fairly accessible. The Credit Union Department for example reports $480 to $485 million of consumer credit outstanding on December 11, 1979, whereas last year at this time the amount was $440 to $445 million.

The reports reveal no information in regard to any major problems existing that would prevent persons of small means from obtaining credit other than, of course, rising interest rates. However, two issues are raised in the reports that are seen as problems by one or more of the supervisory agencies. These two areas have the potential of affecting lower income consumers more seriously.

First, the Department of Banking reports that it may be difficult for some consumers to obtain small amounts of credit for short periods of time. The Department attributes this difficulty to the fact that the charges a lending institution may assess on consumer loans are limited to the charges listed in Sections 537.2401, .2402 and .2501. Because banks are not allowed by these sections to assess minimum charges on consumer loans, they are finding that they are unable to recover their costs on loans under $1,000. As a result, small short-term loans are becoming less available from banking institutions.

Another problem pointed out by the Directors of both the Industrial Loan Division and Small Loan Division of the Office of Auditor of State relates to the cost of money rising with the prime lending rate. As this has been as high as 15 1/4 percent, they feel a 15 percent maximum finance charge on closed-end credit purchases is no longer adequate. As it becomes less profitable for lending institutions to purchase consumer paper at 15 percent, closed-end credit becomes more scarce. When lenders are unwilling to purchase consumer paper at 15 percent, the only real alternative to terminating closed-end credit transactions is to continue such transactions but to sell the paper at a discount. This, of course, causes the business to take a loss which will probably be passed on to <u>all</u> consumers in the form of increased prices.

The two division directors indicate that this problem could be alleviated by taking one of two possible steps:

1. Raising the maximum allowable finance charge on closed-end accounts to 18 percent as it is on open-end accounts. They point out that open-end credit continues to be readily available even with the current cost of money.
2. The other alternative would be establishing a floating rate on closed-end accounts tied to the federal discount rate.

The reports show that all of the agencies that regulate lending institutions examine each institution unders its direction on a regular basis. None of the agencies use forms or checklists designed to elicit information that would specifically reveal the degree of compliance with the ICCC. Rather, the examiners are responsible for having a general knowledge of the ICCC and are supplied copies of Attorney General Credit Code opinions to guide them in their enforcement activities.

The most common errors uncovered through examinations are inadequate truth-in-lending disclosures and excessive finance charges. Generally, individual lending institutions that are found to be in violation of the ICCC are asked by their supervisory authorities to correct the problems.

Unfortunately, the Administrator has not, in the past, received information such as formal examination reports which would disclose ICCC violations or would indicate whether the problems had been corrected.

One of the recommendations the office is making to all of the supervisory agencies is that all such examinations should result in formal examination reports. These reports should be available to the Administrator so that the office has a better sense of the degree to which financial institutions are complying with the ICCC. Also, the agencies involved should report directly to the Administrator any serious violations that their examinations uncover. Finally, a follow up should be made on each such report to determine whether the problem has been corrected and in appropriate cases, whether proper redress has been made to affected consumers.

The improvement in the exchange of information between the Administrator's Office and the regulatory agencies will definitely assist the Administrator in learning of any ICCC problems throughout the state. These problems can be dealt with by better coordination between the Administrator and the regulatory agencies and also by the Administrator initiating necessary investigative and enforcement activities.

One of the 1980 goals of this office is to establish a more effective relationship between those members of the office involved in ICCC activities and the state agencies with specific ICCC supervisory authorities. It should be

pointed out that the two staff members most directly involved in the Attorney General's ICCC efforts are both new to the office this year and have had to educate themselves in the complexities of the ICCC. During 1980, the office will work to establish both formal and informal lines of communication with all of the agencies on a regular basis.

VII. STATUS OF CREDIT IN IOWA

The provisions of Section 537.6104(5) of the ICCC require the discussion in this report of the use of consumer credit in the state. A number of points in regard to credit problems, certain possible solutions and particular areas where consumers and regulated institutions may be in need of various kinds of assistance are already covered in other sections of this report. They are considered in Section II, Complaints; Section III, Litigation; Section IV, Other State Agencies; Section VIII, Other States' UCCC Activities and Section XI, Legislative Recommendations.

The three most important changes in the credit practices of financial institutions and businesses, as they affect Iowa consumers and the use of consumer credit in the state, are as follows.

The first point is that small loan companies no longer charge the interest rates authorized by Chapter 536A on matured pre-computed loans. Consequently, some consumers will be paying less in finance charges after their loans mature as the interest rate on the balance due is generally covered by the usury statute.

However, the most important effect of this previously discussed Attorney General opinion is that creditors will now be encouraged to make advance written agreements with debtors as to exactly what charges will be assessed in the event of default at the maturity of a pre-computed loan. As a result, the debtor will have a more realistic idea of precisely what it will cost to extend a pre-computed loan beyond maturity.

The second point is that all creditors have been put on notice by an Attorney General's opinion that they are required to execute a bilateral written agreement with the debtor before any interest can be charged in excess of 5 percent annually on balances due. The result is that the debtor will know, before acquiring credit, how much the credit will cost as an alternative to paying in cash. Also, the ground work has been laid for possible litigation during 1980 against creditors who continue to impose charges, often up to 1 1/2 percent a month, on unpaid bills where the creditor does not have a bilateral written agreement with the consumer providing for such a charge.

The third and final important area to be emphasized is that all loans by one financial institution to one individual or family are no longer aggregated automatically for the $35,000 limit. Therefore, a financial institution may make several consumer loans to an individual or family under $35,000 at 15 percent even though the aggregate amount of the loans exceeds $35,000. This, of course, assumes that there is no proof of "intent" to so separate the loans for the purpose of

charging a higher rate. The result of this opinion has been that loan funds have been more available than they otherwise would have been with the currently high prime lending rates.

VIII. OTHER STATES' UCCC ACTIVITIES

As the State of Iowa continues implementing the Iowa Consumer Credit Code, it would be appropriate for purposes of evaluation to review in general fashion the progress of the other ten states which have adopted some versions of the Uniform Consumer Credit Code. Some of the points considered are the date of passage of the Act, the present size and structure of the Administrator's staff, the amount and source of funding for the program and the rules and regulations promulgated.

The State of Colorado enacted the UCCC in 1971, and like Iowa, has a close relationship with the Office of the Attorney General. The Administrator, a former Assistant Attorney General, heads a staff of seven which includes a Deputy Administrator, three examiners, and two clerical personnel. An annual budget of $170,000 is utilized primarily for salaries. All litigation is carried out through the Office of the Attorney General. The statute, has been augmented by two rules dealing with rescission and garnishments.

The State of Idaho adopted the UCCC in 1971. The Administrator, with a budget of $90,000 from the General Fund, directs the smallest staff among Iowa's sister UCCC states.

An investigator, examiner and secretary assist the Administrator. A staff attorney for the Department of Finance provides the legal support for any litigation that the Administrator might undertake. Thus far, Idaho has not been involved in any litigation.

The Administrator of Indiana directs a staff of 34 including an assistant, an attorney, a UCCC examiner, an educational director, four secretaries, and 26 examiners. Since the UCCC was adopted in 1971, the annual budget has risen to $500,000. The source of the administrative funding is from filing fees assessed against lenders and credit sellers at a rate of $10 per $100,000 in loans. There are no examination fees charged and in the past fiscal year $547,000 in refunds have been assessed by examination procedures.

The State of Kansas administers its UCCC version with a Commissioner who directs a staff of nine including an Assistant Commissioner, four field examiners, one office examiner, and two clerical persons. All litigation is done by the Office of the Attorney General. A budget of $203,000 is used to administer the UCCC version adopted in 1974. This figure does not include an additional budget of $50,000 used to educate the credit public in Kansas about the UCCC. The source of funding is from license fees ($100) and from a registration of credit grantors ($10), which includes most small businesses.

Maine, the most recent state to adopt the UCCC (in 1975), presently has a staff of nine. With a budget of $160,000, a Supervisor, a Deputy Supervisor, Chief Examiner, research associate, four field examiners, and a two-person clerical staff administer the UCCC for the state. Over $100,000 has been refunded in the last three years as a result of their examinations. Maine has promulgated eight rules dealing with the replacement of the "Rule of 78's" by actuarial calculations, the right of set off and insurance refunds.

In 1969, Oklahoma was the first state to adopt the Uniform Consumer Credit Code. Oklahoma now has a budget of $417,000 to maintain offices in Tulsa and Oklahoma City. The seventeen employees include the Administrator, the Administrative Assistant, three examiners, two attorneys, a Deputy Administrator, and four secretaries in Oklahoma City and an Administrative Assistant, three examiners, and a secretary in Tulsa. The source of the funding is license fees, notification fees, and a charge levied on examinations. Six rules concerning fees and refunds have been implemented.

The State of South Carolina has developed the largest program for the administration of the Uniform Consumer Credit Code which it passed in 1975. It was substantially revised in 1976 and a total of 31 rules and regulations have been promulgated in that time period. A total of 38 staff members organized into three divisions operate on a budget of $1,003,000 to administer the UCCC.

The Administrative Division is composed of the Adminis-

trator, a Deputy Administrator, legal counsel to the Administrator, a staff attorney and a legal secretary. It also includes an information office, an education coordinator, a secretary in the public information section and an administrative assistant manages the administrative operations. All word processing is accomplished by a legal secretary and regular administrative operation is done by two secretaries, one accounting clerk, a mail clerk, and a file clerk. The Consumer Services Division is staffed by an executive assistant, three senior complaint analysts, three junior complaint analysts, one head secretarial clerk and three secretaries. The Consumer Advocacy Division includes one assistant consumer advocate (an attorney), four staff attorneys, two investigators, one law clerk, and three legal secretaries. The State of South Carolina retains several usury statutes as well as a Consumer Finance Act, Motor Vehicle Sales Finance Act and other credit statutes.

Utah operates its 33-person administrative staff on a budget of $900,000. The state passed the UCCC in 1969. It has recently revamped its organization and made it a part of the Commission which supervises all financial institutions, including the Credit Code. The named administrator is the Commissioner, but his salary is not drawn from the UCCC budget. However, a Deputy Administrator and an Assistant Chief Examiner administers the UCCC with respect to all supervised lenders, industrial lenders and credit unions. The sources of funding

are licensing fees, annual examination fees paid by banks, and $100 per diem fees for examinations of supervised lenders. Litigation is the responsibility of one Assistant Attorney General assigned to the department.

A staff of 14 people assist the Wisconsin Administrator of the UCCC, which was passed there in 1973. With a budget of $326,000, the Administrator maintains offices in Milwaukee and Madison. The Administrator of the Division of Consumer Credit, an assistant administrator, an examiner-writer, an assistant examiner, an attorney, six field examiners and three clerical people make up the staff. The overall Administrator of the UCCC is the Commissioner of Banks wherefrom he draws his salary. The source of funding is examination fees and licensing fees. Wisconsin maintains its usury statute and controls lenders of many types as well as collection agencies.

On a budget of $100,000 per year, the Deputy Administrator of the UCCC and a support staff of three administer the UCCC in Wyoming. Supporting the Deputy Administrator is an examiner, an educator-public relations person, and a secretary. Wyoming periodically publishes the "Credit Edit" which clarifies credit issues. No ligitation has been undertaken by Wyoming, although an Assistant Attorney General has been assigned to assist the Deputy Administrator on legal issues. A total of 31 rules have been passed by Wyoming.

In preparing this report, the office has conducted a fairly extensive survey of all of the ten other UCCC states. We have attempted to develop certain uniform information from each state. For purposes of comparison, we have placed all eleven of the UCCC states, including Iowa, on the following chart.

One point the reader must remember in using this chart is that some of the states' figures include money for employees whose Iowa counterparts exist in other state agencies. Also, several of the states' dollar figures would be increased if the money spent by the Attorney General's Office in advising and representing the Administrator were included. Although not perfect, these figures do give us a valid base to compare Iowa's ICCC commitment to those of other states.

THE UCCC STATES

STATE	YEAR PASSED	STAFF	BUDGET	SOURCE	RULES
Colorado	10-1-71	7	$ 170,000	General Fund	2
Idaho	7-1-71	3	$ 90,000	General Fund	3
Indiana	10-1-71	34	$ 500,000	Filing Fees	1
Iowa	7-1-74	1	$ 30,000 (Estimated)	Attorney General's Budget	0
Kansas	1-1-74	9	$ 253,000	License Fees, Registration of Credit Grantors	18
Maine	1-1-75	9	$ 160,000	General Fund	8
Oklahoma	7-1-69	17	$ 417,000	License Fees, Examinations	6
South Carolina	1-1-75	37	$1,003,836	General Fund	31
Utah	7-1-69	33	$ 900,000	License Fees, Examinations	12
Wisconsin	3-1-73	14	$ 326,000	License Fees, Examinations	57
Wyoming	7-1-71	4	$ 100,000	General Fund	31

The figures set forth on this chart show a contrast between the commitment made by the State of Iowa to fund ICCC enforcement and the commitments made by its ten sister UCCC states. The Iowa "Consumer Credit Protection Bureau" has never really been viable. Neither the Attorney General's Office nor the Consumer Protection Division has any separate budget for ICCC activities; and ICCC complaints, investigations, opinions and litigation are handled by available personnel in the Consumer Protection Division.

The Iowa estimate of one full-time staff member and an estimated annual budget of $30,000 takes the following into consideration in arriving at these figures:

1. A limited amount of time spent by the Division Head of the Consumer Protection Division in administering ICCC matters within the daily routine of the Division.

2. A limited amount of time spent by the Deputy Division Head of the Consumer Protection Division in reviewing and assigning ICCC complaints in the normal process of reviewing and assigning all complaints coming to the Division.

3. The time commitments of two Consumer Protection Division Assistant Attorneys General who both spend portions of their time handling ICCC complaints, investigating problems arising thereunder, dealing with the other administrative agencies of the state, writing opinions and handling credit and interest rate litigation.

4. The support time commitment of one Consumer Protection Division secretary who spends a portion of her time typing and working on Credit Code matters.

5. The time commitments contributed by the Attorney General and Solicitor General in reviewing Credit Code opinions, litigation and other matters.

Even in light of the lack of any substantial staff for ICCC activities, the division has issued a number of major Credit Code opinions in 1979 and completed a number of major Credit Code lawsuits. In addition, the office has handled all of the other complaints and inquiries as discussed in earlier sections of this report.

IX. RULES AND REGULATIONS

The language of the ICCC authorizes the Attorney General to adopt rules to implement the provisions of the Act. The provisions of Section 537.6104(3) direct the Administrator to keep rules in harmony with the rules of Administrators in other jurisdictions which have enacted any form of the UCCC. During 1980, the office will begin rule-making efforts.

The first part of this effort has already been undertaken. Staff members have been in contact with all of the other UCCC states to determine generally what they have done in the way of promulgating rules and regulations. A compendium of the other UCCC states' rules and regulations has been prepared and should be an excellent background for considering what rules the office might seek to implement in 1980.

Some UCCC states have adopted a full set of regulations. These include substantive rules dealing with the operation and

interpretation of all of the most important parts of the UCCC as well as detailed procedural regulations. Other states have promulgated rules on a more ad hoc basis.

Wyoming, for example, has adopted the most detailed set of rules and regulations that now exist in a UCCC state. Its nearly forty pages of rules are divided into three chapters: (1) organization, purpose and methods; (2) disclosure and advertising; and (3) procedural rules. Oklahoma and Utah have also adopted detailed sets of rules and both states include a chapter entitled, "Disclosure in Advertising," that are almost exact replicas of Wyoming's. This, of course, implements the purpose of the UCCC in trying to affect continuity throughout enacting states. This is especially important to regulated institutions doing business on an interstate basis.

The other UCCC states have also adopted various forms of rules and regulations. Six have adopted rules and regulations in some detail, but less than those of Wyoming, Oklahoma and Utah. On the bottom end, Colorado has adopted only two rules.

As the office moves into rule making in 1980, we hope that such activities can affect a number of positive changes. Some of the things the office believes that a substantial ICCC rule-making effort would accomplish are:

1. Clarification of obvious misdrafts of several sections of the ICCC that, when read literally, conflict with other sections of the ICCC, or with the general intent of the statute.

2. Clarification of certain ambiguities that exist in sections of the Code so that the Code may be applied more consistently among creditors and consumers.
3. Conservation of administrative time in the long run by eventually eliminating some of the telephone calls and written requests coming to the office asking for clarifying interpretations of certain sections of the Code. Many of these requests come in repeatedly about the same Code section and clarifying rules could eventually greatly reduce these inquiries.
4. Keeping the administration of the ICCC in conformity with administration of the UCCC in other states so that the law is as uniform as possible.
5. Adding needed flexibility to the operation and enforcement of the ICCC so that it will be a practical and workable statute under varying economic conditions.

6. Adding "bite" to the enforcement powers of the Administrator by developing a forum for hearings and a vehicle for issuing orders.
7. Providing supervisory agencies with concrete guidelines thereby making their enforcement activities more effective.

The Iowa Attorney General as the Administrator of the ICCC will exert a serious effort in 1980 to engage in the rule-making activities necessary to render the ICCC the workable, dynamic instrument it was intended to be.

X. NEEDS OF THE OFFICE

Iowa's commitments to ICCC enforcement has lagged behind those of its sister UCCC states. Within budget and staff limitations, the office has done its best to carry out its mandates under the ICCC. The office has done an excellent job, especially during 1979, in moving in a number of important Credit Code areas on opinions, lawsuits and educational programs.

During 1980, the office will work on the drafting and procedural steps necessary to implement rules and regulations. The first step will probably be procedural rules but we also intend to immediately try to address ourselves to several substantive areas. The completion of procedural and substantive rules and regulations during 1980 will have a far-

reaching effect on the Iowa credit industry.

When the Legislature passed the ICCC in 1974, it also appropriated $100,000 to the Attorney General for the Attorney General to establish and fund the "Consumer Credit Protection Bureau" for the fiscal year 1974-1975. The Attorney General at that time directed the Consumer Protection Division to develop ideas for the formulation and staffing of the bureau as a "unit" within the Consumer Protection Division.

The initial plan for beginning a viable bureau was roughly as follows:

1. The then Assistant Attorney General in Charge of the Consumer Protection Division would become the "primary" attorney for the ICCC and would devote approximately 50 percent of his time to the Credit Code area.

2. An attorney would be hired to take over the general consumer fraud work of the Division Head who would be devoting most of his time to administration and Credit Code responsibilities.

3. An additional attorney would be hired for the division to spend most of his or her time on Credit Code matters. This would make a commitment of approximately one and one-half attorneys working full-time on Credit Code matters as the first step in establishing the Consumer Credit Protection Bureau.

4. After enough background knowledge and experience had been gained by the two attorneys working in the area to determine

what was most needed to implement and enforce the Code, decisions would then be made whether or not the bulk of the money appropriated would be used to hire investigators, accountants, auditors, secretaries or other personnel with the needed specialized skills.

5. Steps number one, two and three were taken. However, this is about as far as the organizational efforts proceeded.

Although no exact figures are known, the division estimated that during the fiscal year of 1974-75, it expended slightly in excess of $40,000 of the $100,000 appropriated for the enforcement of the Credit Code for that fiscal year. At that time, it was assumed that the $100,000 would be reappropriated for the fiscal year 1975-76 and following fiscal years and that the expansion plans for the hiring of additional bureau personnel could proceed.

However, such was not to be the case. As the fiscal year 1974-75 drew to a close, the then Attorney General attempted to spend slightly in excess of $50,000 of unspent monies for the purchase of a new airplane. This resulted in a conflict between the then Attorney General, the Governor and the Legislature. The eventual result of this was that not only was the $100,000 that had been expected to be reappropriated for the bureau not reappropriated, but the budget was debited by the amount of money attempted to be spent on the airplane and outside counsel fees. This brought plans for the development of the Consumer Credit Protection Bureau to a halt.

In looking back at the first five and one-half years of the existence of the ICCC, its administration and enforcement have not developed substantively during that time. Obviously, the Legislature has been concerned with the increase in state employees and responses to requests for funding and staffing increases have been looked at very carefully and in some cases "freezes" have been instituted preventing staffing increases. While this may be a desireable fiscal concept, this office feels that the Legislature must recognize certain exceptions. One exception which we believe warrants legislative consideration in the future is the need for funding for the "Consumer Credit Protection Bureau" to become truly effective.

XI. LEGISLATIVE RECOMMENDATIONS

For this year's report, we have considered what ICCC areas have caused confusion or created administrative problems during the past year. These are areas that need clarification and may be areas that the Legislature should consider acting on in 1980.

The provisions of Sections 537.6202 and .6203 set out certain notification and fee requirements that have the effect of requiring all debt collectors to register certain information with the Administrator and pay an annual registration or licensing fee. Because of the broadness of the definition of "debt collector" in the Code, these sections were ruled unconstitutional by a 1975 Attorney General's opinion and thus have never been enforced.

The result of this is that there is currently no licensing of debt collectors nor is there any registration or licensing revenue being collected pursuant to the Code provisions. Although recommendations have been made in the past to amend these sections to meet the constitutional challenges set forth in the 1975 opinion, this has not been done and the problem still exists. Several times during the past year this point has come up when individuals who thought the statute required them to be licensed tried to comply and were informed of the problem.

Through our contacts with UCCC Administrators in other states, we have learned that similar sections are being enforced in other jurisdictions. However, the other states usually limit their licensing requirements to "professional" debt collectors.

The problem with the ICCC provisions are that when the sections are read literally, they apply to a person collecting any debt arising out of a consumer credit transactions. The definition of "debt collector" as it exists currently in the ICCC includes not only the professional debt collector who collects debts for others but also includes all companies, businesses and individuals who collect their own debts. The current definition is far too broad and if it had not been for the 1975 opinion ruling the provisions unconstitutional, the implementation of the debt collection licensing requirements as written would be a massive undertaking.

The Legislature should consider re-enacting the notification and fee provisions to cover only professional debt collectors. This would license those individuals who collect debts for others, excluding attorneys, and would completely exclude persons collecting their own debts.

It should be clearly pointed out that such an amendment to the statute would only exempt persons collecting their own debts from the registration requirements. All debt collectors, including persons collecting their own debts, would still be subject to the requirements of Article 7 of the Credit Code entitled, Iowa Debt Collection Practices Act.

The provisions of Section 537.9120 state that state banks may not have outstanding consumer or installment loans as defined in Section 524.906 which, in the aggregate, amount to more than 25 percent of total assets. This provision is particularly difficult to comply with in rural communities where a large number of the loans made by state banks are for agricultural purposes. This office would recommend that this section be eliminated, or as an alternative, an exception should be created so that agricultural loans are excluded.

The provisions of Section 537.3404 modify what has been called the "holder in due course" law. In its present form, it appears to give the consumer only a 30-day period to assert any claim against an assignee holder in due course. This is in direct conflict with the FTC, Trade Regulation, 16 CFR 433, which preserves a consumer's claims and defenses indefinitely,

not just for Iowa's present 30-day period. The Federal Trade Commission rule pre-empts Iowa law and therefore, Section 537.3404 should adopt 16 CFR 433 by reference or by adopting similar language.

The provisions of the Debt Collection Practices Act, Article 7, contain several points of debate and concern. We would recommend that several sections be amended to clarify certain provisions. Section 537.7103(3)(a)(8) prohibits communication with a debtor's spouse without the consent of the debtor unless the spouse is making inquiry of the creditor. However, Section 537.7103(3)(a) states that it is permissable to contact a person other than the debtor who might reasonably be expected to be liable for the debt. Since both husband and wife are liable for necessary family expenses in many situations it would be normal to contact either the husband or wife. We would recommend that these sections be correlated. Provisions against harrassment and other debt collection restrictions would still apply.

Another confusing area is found in Section 537.7103(3)(a)(4) where it states that a debt collector may not convey any information or do anything else in attempting to locate a debtor but to ask for information on the debtor's location. Paradoxically, Section 537.7103(4)(b) states that a debt collector may not use fraudulent, deceptive or misleading means to get information about a debt including "failure to clearly disclose in all written communications made to collect, or attempt to collect, the debt or to obtain, or attempt to obtain, any information about a

debtor, that the debtor is attempting to collect a debt and that information obtained will be used for that purpose, except where the disclosure would tend to embarrass the debtor." To reduce confusion the sections should be amended to clarify these self-contradictory provisions. It should be noted that the Federal Trade Commission recommends disclosure that the reason for wanting information about the debtor is because the person is attempting to collect a debt.

It is unclear whether utility companies are subject to the debt collection restrictions. The provisions of Section 537.1202(3) state:

> "Transactions under public utility or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment."

The section excludes such from the Credit Code. Clearly, this applies to finance charges allowed. We believe that the Legislature should consider applying the debt collection provisions of the Credit Code to utilities or, on the other hand, clearly exempting them from such provisions.

The Iowa Chattel Loan Law places a ceiling of $2,000 on small loans made to any individual. Additionally, a ceiling of $2,000 is placed on loans made to husband and wife even if they have separate loans. The Federal Equal Opportunity Act provides in Section 202.8 that such state laws are pre-empted and, consequently, Iowa law should be amended to conform to the federal Act and make it permissible for each spouse to obtain a separate loan up to $2,000.

It has been urged by both the Industrial Loan Division and the Small Loan Division that a re-evaluation of insurance premium financing be made. Under Section 537.1301(23) an insurance premium loan is a consumer loan made for the purpose of financing payment of an insurance premium. Section 537.3207 establishes the type of form and the information to be disclosed when making a loan to finance insurance premiums. Both the Industrial Loan and Small Loan Directors have urged that this section be amended to establish a premium finance law which would conform with twenty-five other states' laws. The Code should set a maximum rate of finance charge for the distribution of the proceeds of the unearned premium when a policy is cancelled and establish any other provisions reasonably necessary. A premium finance lender should be licensed as such and examined by current regulatory authority.

With the increasing difficulty in obtaining loans and mortgage money, loan arrangers and mortgage brokers are becoming more active in the State of Iowa. The present practice of taking an advance fee to arrange a loan has been abused in numerous instances.

One consumer fraud suit in this area is now pending. A number of states have adopted licensing procedures for governing loan arrangers or mortgage brokers in order to curtail abuse in these sectors. With the current press of interest rates, a number of additional states are considering statutes which would set standards and establish controls for loan arrangers and mortgage brokers. We would suggest that the

Legislature consider establishing control over this burgeoning industry.

The above recommendations are somewhat general and are taken directly from areas where concern has been shown or expressed during 1979. In any of these areas where the Legislature may be interested in actually considering the recommended changes, the office will be happy to assist in drafting appropriate legislation.

It should also be noted that on the federal level, a bill has now passed Congress and been signed by the President whereby the usury statute of Iowa has been pre-empted for 90 days, effective January 1, 1980. This is the result of the escalating prime lending rate and general cost of money nationwide. The consequences for the Iowa Legislature and for the Administrator of the ICCC is that adjustments may become necessary in Chapter 537 to accommodate this federal action. Until the bill is examined by us, it would be inadvisable to make recommendations on changes that might be required. The Administrator stands ready to provide the necessary recommendations and input if requested.

XII. CONCLUSION

This year, for the first time, the office has truly attempted to provide the Legislature with a fairly complete

statement about the activities of the Consumer Credit Protection Bureau during the previous year. We feel that this report is quite comprehensive and reasonably complete.

Much of the content of this report deals with litigation, opinions, legislative recommendations and other technical points. One thing that should not be forgotten is the fact that underlying all this are real people -- the people whose lives are affected by the interest rates they pay and the debt collection practices they experience; the people that operate the businesses that generate the debts and who operate the financial institutions which make the loans and must live with a very complex statute.

The Iowa Consumer Credit Code is probably the state's most comprehensive law. It touches almost every person in the state and substantially affects each person's financial undertakings. The office is met each day with new and intriguing questions that must be addressed and problems that must be solved. All in all, the enforcement of the ICCC by the Attorney General is a rewarding undertaking.

Dated this 10th day of January, 1980.

THOMAS J. MILLER
Attorney General of Iowa

DOUGLAS R. CARLSON
Assistant Attorney General in Charge
Consumer Protection Division
Consumer Credit Protection Bureau

Tam B. Ormiston

TAM B. ORMISTON
Assistant Attorney General

Patricia J. McFarland

PATRICIA J. MC FARLAND
Assistant Attorney General

APPENDIX

1. Report of the Department of Banking
   Superintendent of Banking

2. Report of the Department of Banking
   Small Loan Division

3. Report of the Auditor of State
   Industrial Loan Division

4. Report of the Auditor of State
   Savings and Loan Associations

5. Report of the Credit Union Department

STATE OF IOWA
DEPARTMENT OF BANKING
TELEPHONE 281-4014
530 LIBERTY BUILDING
418 SIXTH AVENUE
DES MOINES, IOWA 50309

December 13, 1979

Mr. Tam B. Ormiston
Assistant Attorney General
Iowa Department of Justice
L O C A L

Dear Mr. Ormiston:

To enable you as administrator to comply with Section 537.610(5), Code of Iowa, the following information with respect to acts of the bank division as it pertains to the Iowa Consumer Credit Code is submitted. Similar information is being furnished separately concerning the small loan division of this office.

1) Use of consumer credit in Iowa. As this pertains to Iowa chartered banks, in each December the bank division of this office sends forms complete with directions and related definitions to all state chartered banks requesting the chief executive officers of the banks accurately report the amounts of direct and indirect consumer credit outstanding within their respective lending institutions as of the close of business December 31. Commencing with December 31, 1979 the report forms are to be returned to the office of superintendent of banking within thirty days of the request date. The compilation of data reported by 554 Iowa chartered banks for December 31, 1978 is to be found in the Annual Report of the Superintendent of Banking for the year ending 1979. A copy of this report is enclosed. Year end figures for 1979 will be assembled during January and February 1980 and the derived data will be mailed to your office before April 15, 1980.

Because supervisory authority for this office is limited only to Iowa chartered banks, data relative to nationally chartered banks doing business in Iowa and four private banking institutions are not available.

2) The problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit. While we have not had many specific complaints from consumers concerning their inability to obtain loans from Iowa chartered banks since the enactment of the ICCC, it may be difficult for some customers to obtain small amounts of credit for short periods from these banks as they are prohibited from making minimum charges on consumer loans, other than loans made pursuant to Section 524.906(2) of the Code of Iowa. Banks have complained to this office that they can no longer make such loans because they are unable to recover their costs.

3) A description of the examination and investigation procedures and policies. Other than forms discussed in sub-paragraph one of this letter, the bank division has not adopted any special forms or reports relating to the ICCC. However, all of our examiners carry a copy of the ICCC, they receive copies of all opinions issued by your office and they have been charged by this office with the responsibility of becoming familiar with the law and conducting their examinations in such a manner as to determine that state chartered banks are complying with the provisions of the ICCC.

4) A statement of policies followed in deciding whether to investigate or examine the office of credit suppliers subject to the ICCC. As you already know Section 537.2305(1) of the Code of Iowa requires customary examination of all licensed lenders at least once every 18 months. Additionally, it has been our policy to investigate consumer complaints that cannot otherwise be resolved by sending an examiner to a bank to review its records relating to the complaint.

5) A statement of the number and percentages of officers which are periodically investigated or examined. Between January 1, 1979 and December 31, 1979 the bank division will have examined 511 state chartered banks presently under our supervision. The 43 remaining banks will be examined sometime during the first quarter of 1979. Present banking law requires that every state bank shall be examined once during each 18 month period.

6) A statement of the types of consumer credit problems of both creditors and consumers which have come to the Administrator's attention through his examination and investigation and the disposition of them under existing law. We have had few consumer complaints against state chartered banks since enactment of the ICCC. However, we have had many questions from banks concerning various provisions of the law. We have referred most of these questions to your office and have made opinions issued by your office available to all of the banks under our supervision. We are certain you are well aware of the most common problems as a result of your direct contact with attorneys and bankers referred to you by this office.

7) Recommendations, if any, for legislation to deal with those problems within the Administrator's general jurisdiction. The bank division has no recommendations for further or amendatory legislation regarding Section 537, other than those discussed previously.

We hope that this letter provides the information requested.

Very truly yours,

Austin T. Helgerson
Assistant to the Superintendent

ATH/gl

STATE OF IOWA

OFFICE OF AUDITOR OF STATE

Des Moines

COPY

RICHARD D JOHNSON
AUDITOR OF STATE
PHONE 515 281-5834

K. R. (KEN) WILSON C.C.C.E.
INDUSTRIAL LOAN DIVISION
PHONE 515-281-5493

December 10, 1979

Mr. Thomas J. Miller
Attorney General
Capitol Building
State of Iowa
LOCAL

Dear Mr. Miller:

Pursuant to Chapter 537.6104(5) Code of Iowa, the director of the industrial loan division of the Auditor of State Office, submits this report on consumer credit extended under the provisions of Chapter 536A., Code of Iowa for the year 1979.

During this calendar year, 1979, this department will have completed an annual Regulatory Examination of each of the 336 industrial loan licensees within its jurisdiction as required in Chapter 536A.15 Code of Iowa. No licenses were revoked during this period.

These examinations consisted of a review of the operation of the licensees, accounting tests of the charges collected on consumer transactions and other tests of the business deemed necessary. Overcharges and unauthorized charges are set out in our report of examination to the licensee along with our request that refunds or corrections be made and that every effort be made to avoid such errors in the future transactions.

As a result of our examination we find the following problems to exist in the extension of credit and the availability of credit to those in need of it.

1. Section 537.2201 sets the maximum rate of finance charge on closed-end consumer credit sales at 15 percent per year. This rate at today's money cost is not sufficient to make the purchasing of credit sales agreements profitable by licensed lenders resulting in this type of credit becoming unavailable to those consumers in need of it to provide for family welfare, as well as all other credit consumers. Also, the small business person who relies on such credit sales to move their inventory is subjected to loss of income through loss of sales.

This loss to the small business person is a gain to the large chain department store operation since they have a in-house credit card that permits them to collect 18 percent finance charge to $500 and 15 percent over that amount. (Section 537.2202). To ease this discrimination between small and large companies to the detriment of the consumer the closed-end rate should be increased to at least 18 percent per year.

2. In regards to consolidating or refinancing a consumer credit sales agreement into a consumer loan by a supervised lender when this lender holds the credit sales agreement the finance charge can not exceed the rate disclosed in the sales agreement. (Section 537.2504 and 2505).

   To a point, this Section may be of benefit to a consumer, however, in the majority of cases it forces the consumer to maintain installments in an amount that work a hardship on him or it forces him to seek a consolidation loan from another supervised lender who can pay off the total indebtedness of the first lender, including the credit sales, by a loan at a finance charge exceeding the rate set in the credit sales agreement.

   This could be corrected by amending 537.2505 and 2504 to allow consolidation or refinancing by a supervised lender of a credit sales agreement balance into a consumer loan when more than 90 days have lapsed from the date the lender purchased the consumer credit sales agreement.

3. Section 537.3207 sets out the type of form and the information to be disclosed in the form for making a loan to finance insurance premiums.

   This Section should be amended to further protect the consumer by the establishment of a premium finance law as is now existing in some 25 other states. A premium finance lender should be licensed and examined by a current regulatory authority. The Code should set the maximum rate of finance charge, the distribution of the proceeds of the unearned premium when a policy is cancelled for just reason by the lender and other provisions deemed reasonably necessary. The licensing must include both in state and out of state companies doing business in Iowa.

4. Section 537.2501(1)e(1), does not specifically allow an additional charge for appraisal of real estate when a debt is to be secured by an interest in land. Appraisal charges are an intrical part of making a loan secured by an interest in land and the lender should be allowed to include such charges at his option, and when agreed to by a consumer in writing.

Section 537 has now been in effect for some five years. During this period discrepancies have occurred with some being corrected. The above should be considered for correction at this time.

Yours truly,

K. R. Wilson
Director

Industrial Loan Division

KRW:ga

cc: Richard D. Johnson, Auditor of State
Tam Ormiston, Assistant Attorney General

STATE OF IOWA
DEPARTMENT OF BANKING
TELEPHONE 281-4014
530 LIBERTY BUILDING
418 SIXTH AVENUE
DES MOINES, IOWA 50309

December 13, 1979

Mr. Tam B. Ormiston
Assistant Attorney General
Iowa Department of Justice
L O C A L

Dear Mr. Ormiston:

In compliance with Section 6104(5) of Chapter 537, we respectfully submit the following report for those lenders licensed pursuant to Chapter 536.

1) Use of consumer credit in Iowa. The figures as to the volume of consumer credit extended by supervised lenders licensed under Chapter 536 of the Code will not be available until the annual reports required of the licensees by Section 2304(2) of Chapter 537 on or before the 15th of April have been received and tabulated.

2) A description of the examination and investigation procedures and policies. All small loan licensees are examined annually using a regulatory type of examination. The examination consists of checking to see that interest charges being made are not in excess of the amount permitted by statute and that upon prepayment, the consumer is given proper refunds. Also, that upon payment of an account in full, the proper termination statement and release of lien on a motor vehicle title is filed with proper public official and that the legal papers are cancelled and returned to the consumer. We also check for compliance with the Federal Truth in Lending Act. Any consumer complaints are thoroughly investigated and resolved by checking the information as supplied by the consumer against the records of the licensee and determining whether or not the complaint is justified.

3) A statement of policies followed in deciding whether to investigate or examine the office of credit suppliers subject to this act. All examinations are made without prior notice to the licensee, the date of the examination is varied as to the date made.

4) A statement of the number and percentages of offices which are periodically investigated or examined. All licensees are examined at least annually in compliance with Section 536.10 of the Code of Iowa. By December 31, 1979 all of the licensed small loan companies will have been examined during calendar year 1979.

5) A statement of the types of consumer credit problems of both creditors and consumers which have come to his attention through his examination and investigation and the disposition of them under existing law. No special problems have come to light other than the ordinary problems occasioned by the human element.

6) Recommendations, if any, for legislation to deal with those problems within his general jurisdiction. While I believe the Iowa Consumer Credit Code is providing the protection to our consumers, as it was intended to, there are three major deficiencies, namely, insurance premium financing, interest rates on consumer credit sales and loan or mortgage brokers.

a) Insurance premium financing. Section 1301(23) of Chapter 537 provides in essence that an insurance premium loan is a consumer loan made for the sole purpose of financing the payment of an insurance premium. It would appear a supervised lender could finance an insurance premium and assess a finance charge at that rate permitted by the statute the lender is authorized to operate under. In the event a lender is not licensed, it would appear the lender could purchase a consumer credit sale and assess a finance charge of 15% on sales not pursuant to open end and 15% to 18% on open end, assuming the lender is authorized to do business in Iowa and that the sale meets the definition of a consumer credit sale as defined by Section 1301(13).

We are receiving numerous inquiries, many forwarded to us by the Iowa Insurance Department to obtain a small loan license to finance insurance premiums. We have not granted licenses to these firms as the very nature of the business is restricted to a specialized form of lending to a limited clientele and inasmuch as this would preclude the borrowing of money for other purposes by the general public, we feel this type of lending would not qualify for a small loan license.

I appreciate why these firms cannot operate profitably with the prime rate at 15¼% and most lending firms such as insurance premium finance companies paying 1% over prime and in many cases a compensating balance between 10% and 20%, the true cost on their borrowed funds exceed 15%.

Inflation has increased insurance premiums to a level it is necessary for many comsumers and small businesses to finance their insurance premiums and, therefore, I believe Chapter 537 should be amended to permit companies to engage in the business of making consumer loans for insurance premiums, provided the firms are licensed and regulated.

b) Consumer credit sales. With the prime rate at 15¼% the present rate of 15% and 18% for closed end and open end is not an adequate rate. As a normal practice of business, many firms desiring to sell their contracts to financial institution must discount the contract. In other words, the dealer sells the contract at an agreed amount less than the principal stated in the contract.

I am confident this loss is not absorbed by the dealer, but is added to the cost of all merchandise which results in a form of a penalty to those consumers who elect to pay cash for their purchases.

On todays market the cost for borrowed capital is changing so rapidly, the interest rates must be adjusted periodically to enable these firms to make a reasonable profit so as to ensure that this service will be available for those consumers electing to use credit. This could be accomplished by establishing a floating rate tied to the federal reserves discount rate or by permitting the state banking board to set rates as they now do for lenders licensed under Chapter 536.

Section 2505(3) of Chapter 537 provides in essence that if a debt consolidation includes a debt arising from a sale, the finance charge is governed by the provisions on the finance charge for a consumer sale. We have had several inquiries from consumers who wanted to consolidate their debts with a firm that had a consumer sale and with the present cost of doing business, the firm would not consolidate the debts since the finance charge would be limited to that of the sale. Yet, the consumer may go to another firm not having a consumer sale with the consumer and this firm may consolidate their debts at that rate permitted for supervised loans. This causes a certain amount of confusion for the consumer, which I can appreciate. In my opinion, paragraph 3 of Section 2505 should be deleted.

c) Loan or mortgage brokers. During this current tight money period, many consumers and small businesses are facing a serious money-availability problem and are being attracted by ads from loan or mortgage brokers. We can only assume there are mortgage brokers operating in Iowa that do provide a service at a reasonable cost, unfortunately we only hear from those who are less fortunate in their dealings with loan brokers. My concern for these consumers has prompted me to contact other states in regard to these firms. I was somewhat surprised to learn that very few states license or regulate loan or mortgage brokers. However, many of the states not having statutes governing loan or mortgage brokers did indicate they are aware of serious problems in this area and are sponsoring bills to license and regulate these firms.

In my opinion, Chapter 537 should be amended to license and regulate loan and mortgage brokers.

Very truly yours,

Larry D. Kingery, Supervisor
Small Loan Division

LDK/gl

State of Iowa
Credit Union Department

300 FOURTH STREET - 1ST FLOOR
DES MOINES, IOWA 50319
TELEPHONE 281-6514

DATE: December 11, 1979

TO: Tam Ormiston
Assistant Attorney General

FROM: Betty Minor, Administrator
Credit Union Department

In acknowledgement of your recent request, the following information is submitted pursuant to the provisions of Section 6.104(5), Chapter 537, 1979 Code of Iowa.

1) Use of consumer credit in Iowa. The number of active state-chartered credit unions reporting for the period ending December 31, 1979, is 383. The total dollar amount of consumer credit outstanding as of reporting date is estimated to range between 480-485 million dollars.

2) The problems of persons of small means in obtaining credit from persons regularly engaged in the extension of credit. We are not aware of any major problems of this particular nature existing in credit unions at this time. Credit unions extend credit to members only.

3) A description of the examination and investigation procedures and policies. A comprehensive review of a credit union's general financial condition, loan quality, lending policies, operating practices and procedures is made during the examination period. Violations of applicable statutes, rules or regulations that may be detected during the examination process are included in the report, discussed with officials contacted and appropriate corrective action requested.

4) A statement of policies followed in deciding whether to investigate or examine the office of credit suppliers subject to the ICCC. Every effort is made to conduct at least one examination of all credit unions under the jurisdiction of this office on an annual basis. Any complaints or questions received from individual members are investigated and resolved promptly.

5) A statement of the number and percentages of offices which are periodically investigated and examined. We conducted 275 examinations during calendar year 1979.

6) A statement of the types of consumer credit problems of both creditors and consumers which have come to our attention through examination and investigation and the disposition of them under existing law. With

respect to Chapter 537, the major number of violations noted to exist would still involve disclosure errors and failure to issue comaker obligation statements. As mentioned previously, all violations are brought to the attention of management and corrective procedures explained.

7) Recommendations, if any, for legislation to deal with these problems. None.

8) Other remarks. Effective January 1, 1979, the Credit Union Department came into being. All examining staff members transferred to the new department, ensuring continued quality examinations.

bb

STATE OF IOWA
OFFICE OF AUDITOR OF STATE
STATE CAPITOL BUILDING
DES MOINES, IOWA 50319

RICHARD D. JOHNSON, CPA
AUDITOR OF STATE

JOHN A. PRINGLE, SUPERVISOR
SAVINGS AND LOAN ASSOCIATIONS
PHONE 515-281-5491

December 13, 1979

Mr. Tam B. Ormiston
Consumer Protection Division
Office of Attorney General
Second Floor - Hoover Building
LOCAL

Re: Iowa Consumer Credit Code

Dear Mr. Ormiston:

Pursuant to your request and in compliance with Sections 537.6104(5) and 534.70(4), Code of Iowa, please be advised as follows:

a. During the calendar year 1978, there were no new savings and loan associations organized nor were there any applications for the organization of same approved or denied. Seven new branch offices of existing associations were approved and none were denied.

b. As of December 31, 1978, the outstanding balance of all consumer loans of state-chartered associations totaled $39,750,318. These loans consist of home improvement loans (28 percent of total), mobile home loans (38 percent of total), educational loans (5 percent of total) and loans secured by savings accounts (29 percent of total). This breakdown of these four types of consumer loans is compared with the breakdown from the calendar year 1977, which showed 20 percent, 51 percent, 4 percent and 24 percent respectively. A breakdown of these loans made by each institution will be furnished upon request.

c. It is estimated that approximately $8,000 was expended on consumer protection by this division during the calendar year 1978.

d. This division examines 37 state-chartered savings and loan associations in Iowa. Of this total 8 are uninsured and are also audited by this division. The audit/examination of the uninsured associations is completed annually and the examination of the 29 insured associations, done jointly with federal examiners from the Federal Home Loan Bank Board, occurred approximately once every 15 months. These insured associations are also audited annually by an independent CPA firm. Compliance with the Consumer Credit Code is determined by examining a random sampling of the various types of consumer loans

granted by each institution. The violations discovered were nominal. Copies of Chapter 537 have been supplied to all state-chartered associations in Iowa, as well as the offices of Examination and Supervision, Federal Home Loan Bank Board of Des Moines.

To my knowledge consumer credit offered by savings and loan associations in Iowa remained readily accessible during 1978. The rates did, however, begin to increase slightly due to an overall shortage of loanable money and rising costs of dividends paid to savers.

If I may provide further information regarding this subject, please advise.

Sincerely,

John A. Pringle

John A. Pringle, Supervisor
Savings and Loan Associations

JAP:ga