

January 29, 1951.
Passed on File.

Senate File 214
By BANKS, BUILDING AND LOAN.

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Passed House, Date

Vote: Ayes..... Nays.....

Approved

A BILL FOR

An Act to legalize the payment, certification or acceptance of a check or other negotiable instrument or any other transaction by a bank or trust company in this state performed after banking hours or on any legal holiday.

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

1 Section 1. Nothing in any law of this state shall in any
2 manner whatsoever affect the validity of, or render void or
3 voidable, the payment, certification, or acceptance of a check
4 or other negotiable instrument or any other transaction by
5 a bank or trust company in this state because done or
6 performed on any legal holiday or during any time other than
7 regular banking hours, if such payment, certification,
8 acceptance or other transaction could have been validly done
9 or performed on any other day; provided that nothing herein
10 shall be construed to compel any bank or trust company in
11 this state, which by law or custom is entitled to close for
12 the whole or any part of any legal holiday, to keep open
13 for the transaction of business or to perform any of the
14 acts or transactions aforesaid on any legal holiday except
15 at its own option.

EXPLANATION OF S. F. 214

This bill can be known as a "Holiday Bank Transactions Statute." It is substantively identical with the provisions of the uniform bill prepared and recommended by the Legal Department of the American Bankers Association. The uniform measure or some modification of it has already been adopted in a number of states, among which are:

Florida—Indiana—North Carolina—Texas—Idaho—Montana—Ohio.

The purpose of the bill is to enable banks where they may wish to do so, to remain open for business as other local places of business may now do on various Legal Holidays, and render banking services to their customers on such days, without the danger or likelihood of incurring certain legal liabilities with respect to the "payment, certification, or acceptance of a check or other negotiable instrument or any other transaction". Today there are potentially the following Legal Holidays set out in section 541.85 of the Code:

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|--------------------------|--|
| 1. Sundays | 8. Armistice Day |
| 2. New Year's Day | 9. Christmas |
| 3. Lincoln's Birthday | 10. General Election |
| 4. Washington's Birthday | 11. "Any day appointed or recommended by the Governor of this State or by the President of the United States as a day of fasting or thanksgiving." |
| 5. Memorial Day | |
| 6. Independence Day | |
| 7. Labor Day | |

Why it is legally risky for banks to remain open and transact business on Legal Holidays the same as they do on other days can be briefly explained as follows: From section 541.86 of the Code, 1950, the following is quoted:

"541.86 Time of Maturity. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls on Sunday, or a HOLIDAY, the instrument is payable on the NEXT SUCCEEDING BUSINESS DAY * * ." (Memo: Part in caps made so by writer).

It will be noted that the foregoing referred to statutes, sections 541.85 and 541.86, as well as sections 541.195 and 541.198 of the Code, provide that any instrument payable on demand or falling due on a Holiday is in fact payable on the first succeeding business day. Also, that if the days of grace allowed by the statute should expire on a Holiday, such period of grace is extended to the first following business day.

There is of course no direct provision in our state laws against a bank remaining open on Legal Holidays. However, no bank would think of remaining open on the Sabbath. Nor would it desecrate that day in violation of section 729.1 of the Code. With respect to the other Legal Holidays, banks' attorneys throughout the state have consistently advised and warned banks that the provisions of section 541.86 of the Code above referred to would make it very risky for any bank to remain open for general business on any such day. The reasons may be explained by just two examples: Supposing a bank remained open on a Legal Holiday and (1) paid certain checks or (2) turned down certain checks for insufficient funds, as the case might be. The Drawer of any one of such checks would, pursuant to such section of the Code, have the right in the first instance to stop payment on his check on the very next morning after the Legal Holiday. In the second example the Drawer of a check would by such section of the Code have the right to make a deposit at the opening of the banking hours on the very next morning to cover his check that he had drawn but which the bank had turned down on the Holiday before. It can be seen that legal dishonor in the one case and legal payment in the other case as a practical matter is barred by the provisions of such section of the Code. Therefore, banks' attorneys everywhere have advised our banks and trust companies to adopt the general rule of doing no business whatsoever of any kind on a "Legal Holiday" as designated by our state law. The number of such cases, of course, is very much in the minority when compared with the large volume of transactions that might be carried on by a bank if it remained open on a Legal Holiday. However few such cases may be, no bank nor any other line of business if put in the position of a bank would care to knowingly take on such a risk and subject itself to possible litigation and impairment of understanding and good relations with its customers and the public in general.

The tendency in the more recent years has been rather to keep adding to the number of Legal Holidays in order to commemorate or honor some event rather than to reduce the number. Each new Legal Holiday requires our banks to remain closed that one more day regardless of their own desires or wishes to remain open for business the same as other local places of business may remain open on certain Holidays. Thus it will be seen that the purpose of this proposed measure is a very simple but a very important one; it is merely requesting that the General Assembly make it possible for our banks to safely remain open as other local business places may do on various Legal Holidays in order that such banks may extend their banking services

to the greater convenience of the general public and customers who may need banking services on various Legal Holidays. This measure, it will be noted, does not require banks to remain open on Legal Holidays any more than stores, factories, offices or other local business places are required to remain open on Legal Holidays. The general purpose of this bill, it will be seen, is to try to put banks on a parity with such other places of business with respect to remaining open for business on various Legal Holidays. This bill is recommended by the Iowa Bankers Association and the State Banking Department.