



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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March 28, 1955

Hon. J. M. Falkner
Commissioner
State Banking Department
Austin, Texas

Opinion No. MS-188

Re: Construction of House Bill
19, 54th Legislature, as to
"limited banking services"
and closing on Saturdays
and holidays.

Dear Mr. Falkner:

You have requested the opinion of this office on two questions relating to the construction of House Bill 19, being Chapter 16 of the Acts of the 54th Legislature, 1955, and codified as Article 4591d, Vernon's Civil Statutes.

Your first question concerns Section 1a:

"Can a bank in performing limited banking services confine such services to one or more of these operations without performing all of them?"

As Article 4591d now reads, any bank or trust company doing business in this State may elect to remain closed for general banking purposes on Saturday or any other week day provided sufficient notice is given under the terms of Section 1a. It is unquestioned that the provisions of Section 1a as to closing or remaining open are "completely permissive" and a bank or trust company "may, at its option" elect to close for these purposes.

As we read Section 1a it provides two major options:

1. A bank or trust company doing business in this State may close on Saturday or any other weekday, for general banking purposes.
2. Having so decided there is a further option to remain open on such day for "limited banking services."

The Legislature has left no doubt as to what constitutes "limited banking services." The statutory definition is as follows:

" . . . Limited banking services shall mean 1 transit operations, 2 cashing and certifying checks drawn on the bank performing such limited services, 3 receiving payments on obligations due to such bank or to any other party for which such bank is acting as collection agent, 4 making change and 5 providing access to safety deposit boxes. . . ."

It is our opinion that by so defining such term and enumerating that which shall comprise "limited banking services" it has necessarily directed that no bank which has elected to perform limited banking services can further elect to eliminate some of the services in the legislative definition. In so defining, the Legislature has indicated a reluctance to leave such unbridled discretion in the hands of the various banks. If a bank chooses to do limited banking services, we hold that it must make available all the services so named in that definition.

Your second inquiry deals with Section 1c:

"Can the banks or Boards of Directors by appropriate resolution legally elect to observe all of the holidays heretofore customarily observed by banks, numbering fourteen in all?"

The Bill provides that where the Bank or trust company elects to close on Saturday or any other weekday for general banking purposes that day, as to that institution, and for general banking purposes, shall be treated as Sunday or the Christian Sabbath for all purposes and not as a business day. It further provides that where an institution elects to remain closed for general purposes but open for limited purposes, that day, as to that institution, shall not be treated as a legal holiday for the performance of limited banking services.

Section 1a enumerates six dates declared to be legal bank and trust company holidays, in addition to Sundays, when closing is required. These are in addition to those days "on which a bank or trust company may elect to close for general banking purposes as provided in Section 1a." In considering the opening clause of Section 1c, as well as the repealing clause in Section 3 of House Bill 19, it will be noted that the enumeration of legal holidays in Article 4591, V.C.S., no longer applies to banks and trust companies. Therefore, we answer your second inquiry in the negative. A bank or trust company cannot elect to observe holidays not listed in Section 1c of

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House Bill 19.

Our opinion here represents the only construction open to us by the positive language of the Bill. Should the proponents or sponsors of this legislation desire another and different result the remedy lies with the Legislature.

SUMMARY

A bank or trust company electing to perform "limited banking services" on a day when it is closed for general banking purposes must perform all of such limited banking services as defined by Article 4591d, V.C.S.

Only the six dates named in Article 4591d, V.C.S., constitute holidays for banks and trust companies, closing on such days being mandatory. Other holidays are Sundays and the Saturdays or other weekday on which a bank or trust company may elect to close under such Article.

Yours very truly,

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