

# STATE OF COLORADO

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**Department of Regulatory Agencies**

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Executive Director



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**DIVISION OF BANKING**

Richard Fulkerson  
State Bank Commissioner

**INTERNAL MEMORANDUM**

**TO:** Supervisory Staff

**FROM:** Barbara M.A. Walker  
State Bank Commissioner

**DATE:** January 31, 1995

**RE:** Operating Hours / Holidays and Temporary Closings

**INTRODUCTION**

The staff of the Division of Banking ("Division") regularly receives calls from commercial banks and industrial banks ("banks") and trust companies (collectively "financial institutions") concerning the hours of operation they may have and what procedures they should follow for holidays and other times when they want to temporarily close for extended holiday hours, or because of snow storms, the death of an employee, or other emergencies. The purpose of this Internal Memorandum is to give you guidance in responding to questions concerning the setting of the hours financial institutions are open to the public. This Internal Memorandum does not address temporary emergency closings of financial institutions by the State Banking Board or pursuant to federal law.

**DISCUSSION**

There are essentially two aspects of a financial institution's operating hours over which the Division exercises its regulatory jurisdiction. First, neither the statutes nor the rules administered by the Division set forth the hours during which a financial institution should be open for business. However, from a safety and soundness perspective, a financial institution must be open for business during what are normally considered to be regular business hours, approximately 6 to 8 hours a day, from Monday through Friday in order to be profitable. Also, from a customer perspective, a financial institution should be open for business during regular business hours in order to provide competitive service. Although it is not the purpose of this Operating Memorandum to define either "open for business" or "regular business hours," it is the position of the Division that, as far as the laws it administers are concerned, a financial institution may be open 24 hours a day, seven days a week. Of course, any financial institution that is open for business either more or less than regular business hours must consider the impact of other laws, such as the Uniform Commercial Code and labor laws, as well as access to the Federal Reserve Bank.

The second aspect of the Division's jurisdiction arises from specific statutory provisions regarding when a financial institution may be *closed* for business. The following statutory provisions address holiday closures and temporary closures.

## **Statutory Provisions**

### **1. Weekend Hours**

#### Commercial Banks

**Section 11-6-103. Saturday closing – notice – effect.** Any state bank or trust company, national banking association, or federal reserve bank may, by brief notation on its front door, fully dispense with, or restrict to such extent as it may determine, the hours within which it will be open for business on all, or less than all, Saturdays. However, the fact that a bank remains open for business on all, or less than all, Saturdays shall not make that day, or any part thereof, a banking day for the purposes of section 4-4-104(1)(c), C.R.S., of the "Uniform Commercial Code". Any plan so adopted by any such organization may be changed by it from time to time in its discretion. Every Saturday on which any such state bank, national banking association, or federal reserve bank, in observance of such notation, is not open for business shall be, with respect to the particular organization, the equivalent of a legal holiday, as specified in section 24-11-101, C.R.S. Any act authorized, required, or permitted to be performed at, by, or with respect to such organization on a Saturday which is for it a holiday may be performed on the next succeeding business day, notwithstanding the provisions of any other law of this state to the contrary, and no liability or loss of right of any kind shall result from such delay. The provisions of this section shall not operate to invalidate or prohibit the doing on any Saturday of any such act by any person or organization referred to in this section.

#### Industrial Banks

**Section 11-22-112. Saturday closing – notice – effect.** Any industrial bank, by brief notation on its front door, may fully dispense with or restrict to such extent as it may determine the hours within which it will be open for business on all or less than all Saturdays. The fact that a bank remains open for business on all or less than all Saturdays shall not make that day, or any part thereof, a banking day for purposes of section 4-4-104(1)(c), C.R.S., of the "Uniform Commercial Code". Any plan so adopted by any such organization may be changed by it from time to time in its discretion. Every Saturday on which any such industrial bank, in observance of such notation, is not open for business shall be with respect to the particular organization the equivalent of a legal holiday as specified in section 24-11-101, C.R.S. Any act authorized, required, or permitted to be performed at, by, or with respect to such organization on a Saturday which is for it a holiday may be performed on the next succeeding business day, notwithstanding the provisions of any other law of this state to the contrary, and no liability or loss of right of any kind shall result from such delay. The provisions of this section shall not operate to invalidate or prohibit the doing on any Saturday of any such act by any person or organization referred to in this section.

Trust Companies

No provision.

The Division interprets these provisions to allow a financial institution to operate on any one or more Saturdays, as well as on any one or more Sundays, throughout the year as the financial institution may determine. The financial institution is also free to determine the hours during which it will be open for business on those days, as well as on any other business day. The fact that a financial institution is open for business on either one or more Saturdays or on one or more Sundays does not make those days a banking day for purposes of the UCC.

**2. Temporary Closings**

Commercial Banks

**Section 11-6-109. Temporary closings of banks – when.** (1) Any bank doing business in this state may remain closed on any day on which, by reason of an occasion of national mourning or rejoicing or national or local emergency affecting the community in which such bank is located, the governor shall by proclamation request the people of the state or of said community to close their places of business.

(2) If the banking board is of the opinion that an emergency exists affecting banks located in the state or in any part thereof, it may authorize banks located in the area affected by the emergency to close any or all of their offices, and it shall make public announcement of such authorization. In addition, if the banking board is of the opinion that an emergency exists which effects a particular bank or a particular office thereof, but not banks located in the area generally, it may authorize the particular bank or office so affected to close. As used in this subsection (2), the word “emergency” shall include any condition which may interfere with the conduct of the normal operations of, or the transportation of employees to or from, a bank or one or more offices thereof, or which poses an existing or imminent threat to the safety or security of bank personnel or property, including without limitation conditions arising by reason of fire, flood, windstorm, snowstorm, or other casualty, interruption of transportation or power facilities, war or other enemy action, riots, civil commotion, or other acts of lawlessness or violence.

(3) If the officers of a bank are of the opinion that conditions exist which pose an existing or imminent threat to the safety or security of bank personnel or property generally or at any one or more offices thereof, they may close the bank or the office affected by such threat, as the case may be, irrespective of whether the governor or the banking board has acted under this section. As used in this section, the word “officers” shall mean the person designated by the board of directors, board of trustees, or other governing body of bank to act for the bank in carrying out the provisions of this section or, in the absence of any such designation or the officer so designated, the president or any other officer currently in charge of the operations of the bank or of the office in question. A bank closing an office pursuant to this section shall give as prompt notice to the banking board of such action as conditions permit.

(4) Any bank or office thereof which is closed by action of the banking board under this section may remain closed until it declares that the emergency has ended. Any bank or office thereof which is closed by decision of the officers of the bank may remain closed until such officers determine that the threat has ended. In either event, any bank or office thereof may remain closed for such further time thereafter as may reasonably be required to reopen, but in any event not later than the normal time of opening on the next business day.

(5) Any day on which a bank remains closed and any day on which a bank or any one or more of its offices is closed during any part or all of its normal banking hours, by decision of the banking board or by decision of its officers, shall be, with respect to such bank, or if not all of its offices are closed, then with respect to those offices which are closed, the equivalent of a legal holiday, as specified in section 24-11-101, C.R.S., and any act authorized, required, or permitted to be performed at or by or with respect to such bank or such office, as the case may be, on such day may be performed on the next succeeding business day without any liability or loss of rights resulting from such delay.

Industrial Banks

No provision.

Trust Companies

No provision.

A financial institution may determine to close temporarily for any number of reasons, as contemplated by this provision. The Division offers financial institutions broad discretion in determining when a local emergency or other condition exists that warrants the temporary closing of the financial institution. There are many different kinds of local emergencies or other conditions that may cause a financial institution to determine that it is in its best interests, as well as that of its employees or community, to close temporarily. For example, a financial institution may determine to close if there is a blizzard, flooding, or toxic spill from a train derailment in its community. It may determine to close temporarily to allow its employees to attend the funeral services for a prominent person, or to allow them to participate in an annual community function. In these instances, the Division does not require a proclamation by the Governor, nor an action by the Banking Board, before the financial institution may temporarily close.

Also, in connection with the legal holiday statutory provisions cited below, financial institutions may be open for business on legal holidays. On the other hand, they may also close early on, for example, Christmas Eve or New Year's Eve, even if those days fall on a week day.

The Division requires that the financial institution promptly advise the Division of its determination to close temporarily, including the reason(s) for and the hours of the temporary closure, by calling or leaving a message with the Division staff person designated as the supervisor or liaison for the financial institution. The Division also requires that the financial institution promptly send a follow-up letter containing the same information to the Division. In connection with any temporary closure, the determination to close temporarily in a prominent location on its premises, and to otherwise advise its customers as may be appropriate. The duration of the temporary closing is considered a legal holiday.

### **3. Holidays**

**Section 24-11-101. Legal Holidays – effect.** (1) The following days, viz.: The first day of January, commonly called New Year's day; the third Monday in January, which shall be observed as the birthday of Dr. Martin Luther King, Jr.; the third Monday in February, commonly called Washington-Lincoln day; the last Monday in May, commonly called Memorial day; the fourth day of July, commonly called Labor day; the second Monday in October, commonly called Columbus day; the eleventh day of

November, commonly called Veterans' day; the fourth Thursday in November, commonly called Thanksgiving day; the twenty-fifth day of December, commonly called Christmas day; and any day appointed or recommended by the governor of this state or the president of the United States as a day of fasting or prayer or thanksgiving, are hereby declared to be legal holidays and shall, for all purposes whatsoever, as regards the presenting for payment or acceptance and the protesting and giving notice of the dishonor of bills of exchange, drafts, bank checks, promissory notes, or other negotiable instruments and also for the holding of courts, be treated and considered as is the first day of the week commonly called Sunday.

(2) In case any of said holidays or any other legal holiday so designated falls upon a Sunday, then the Monday following shall be considered as the holiday, and all notes, bills, drafts, checks, or other negotiable instruments falling due or maturing on either of said days shall be deemed to be payable on the next succeeding business day. In case the return or adjourned day in any suit, matter, or hearing before any court comes on any day referred to in this section, such suit, matter, or proceeding, commenced or adjourned as aforesaid, shall not, by reason of coming on any such day, abate, but the same shall stand continued to the next succeeding day at the same time and place, unless next day is Sunday, when in such case the same shall stand continued to the next succeeding secular or business day at the same time and place. Nothing in this section shall prevent the issuing or serving of process on any of the days mentioned in this section or on Sunday.

**Section 24-11-103. Saturday half holiday – effect.** In every city of this state having a population of twenty-five thousand or over, every Saturday during the months of June, July, and August from 12 noon until 12 midnight is hereby designated a public holiday, and the same shall be recognized, classed, and treated as other holidays under the laws of this state. In the case of a half holiday, bills of exchange, bank checks, and promissory notes shall be presentable for acceptance or payment at or before 12 noon of that day; and, for the purpose of protesting or otherwise holding liable any party to any bill of exchange, check, or promissory note which has not been paid before 12 noon on any Saturday during said months, a demand of acceptance or payment thereof may be made and notice of protest or dishonor thereof may be given on the next succeeding secular or business day. When any person receives for collection any check, bill of exchange, or promissory note due and presentable for acceptance or payment on any Saturday during said months, such person shall not be deemed guilty of any neglect or omission of duty nor incur any liability in not presenting for payment or acceptance or collecting such check, bill of exchange, or promissory note on that day. In construing this section, every Saturday during said months, unless a whole holiday, until 12 noon, shall be deemed a secular or business day.

**Section 24-11-110. Effect of closing public offices.** If, on a holiday designated in section 24-11-103, or on any day when the public office concerned is closed, or on a Saturday, any document is required to be filed with any public office of the state of Colorado, its departments, agencies, or institutions, or with any public office of any political subdivision of the state, or any appearance or return is required to be made at any such public office, or any official or employee of such public office is required to perform any act or any duty of his office, then any such filing, appearance, return, act, or duty so required or scheduled shall neither be abated nor defaulted, but the same shall stand continued to the next succeeding full business day at such public office at the same time and place.

#### 4. Uniform Commercial code

**Section 4-4-104(1)(c). Definitions and index of definitions.** (1) In this article unless the context otherwise requires:

(c) "Banking day" means the part of a day, excluding Saturday, Sunday, and holidays, on which a bank is open to the public for carrying on substantially all of its banking functions.

The Official Comment to this UCC provision states: "Subsection (1)(c): 'Banking Day'. Under this definition that part of a business day when a bank is open only for limited functions, e.g., on Saturday evenings to receive deposits and cash checks, but with loan, bookkeeping and other departments closed, is not part of a banking day."

#### CONCLUSION

Although the statutory provisions concerning operating hours for commercial banks, industrial banks, and trust companies are not necessarily parallel, the Division applies the principles of parity found in Section 11-1-101.5 for its interpretation allowing industrial banks and trust companies to establish operating hours and to determine temporary closings in the same manner and to the same extent as commercial banks. Section 11-1-101.5 directs the Division to, among other things, supervise and regulate financial institutions in such a manner as to preserve and promote sound and constructive competition among financial institutions and to seek regulatory parity among financial institutions.

Financial institutions need maximum flexibility to establish their operating hours, so long as they do so in a safe and sound manner. The Division's interpretation of the statutory provisions concerning operating hours and temporary closings provides both flexibility and prudent supervision.