

538.5 Tender when holder absent from state.

When an instrument for the payment of money is due and the holder is absent from the state or the holder's identity or whereabouts are unknown and the instrument does not provide for a place of payment, the maker may tender payment at the last known residence or place of business of the last known holder, and if there be no person there authorized to receive payment and give proper credit therefor, the maker shall be deemed to have tendered payment and interest shall cease on the date of deposit if:

1. The maker deposits the amount due with the clerk of the district court in the county where the maker resided at the time of the making of the instrument, if the maker was then a resident of the state of Iowa, or if the maker was a nonresident of the state of Iowa at the time of making, with the clerk of the district court of Polk county, and

2. *a.* The maker files an affidavit with the clerk of the court that the identity or address of the holder is unknown and that the maker has made diligent inquiry to ascertain it, or

b. The maker within three days gives notice of such deposit by ordinary mail to the holder, if the holder's identity and address are known.

Upon presentment of the instrument by the holder to the clerk, the clerk shall pay the holder of such instrument the funds in the clerk's hands. If such deposit is in full payment of the instrument the clerk shall deliver the instrument to the maker. If such deposit is a partial payment thereof the clerk shall endorse such payment thereon and return the instrument to the holder.

[C51, §958; R60, §1805; C73, §2103; C97, §3060; C24, 27, 31, 35, 39, §9447; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §538.5]

Referred to in [§602.8102\(75\)](#)