

CHAPTER 116.

LIABILITY OF BANK TO ITS DEPOSITOR FOR PAYMENT OF FORGED OR RAISED CHECKS.

S. F. 213.

AN ACT fixing the liability of a bank to its depositor for payment of forged or raised checks. [Additional to chapter twelve (12) of title nine (IX) of the code, relating to banks.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Depositor to notify bank—time limitation. No bank shall be liable to a depositor for the payment by it of a forged or raised check unless within six months after the return to the depositor of the voucher of such payment, such depositor shall notify the bank that the check so paid is forged or raised.

Approved April 5, A. D. 1909.

CHAPTER 117.

LEVEES, DITCHES, DRAINS AND WATER COURSES; CONSTRUCTION ACROSS THE LAND OF OTHERS.

H. F. 549.

AN ACT to repeal sections nineteen hundred fifty-five (1955) and nineteen hundred fifty-six (1956) of the code and to enact substitutes therefor, and to amend section nineteen hundred fifty-nine (1959) of the code, all relating to the construction of levees, ditches or drains by owners of lands for agricultural, sanitary or mining purposes across the lands of others and providing for the condemnation of such lands as may be necessary for the construction and maintenance of such levees, ditches or drains.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Repeal—drainage across lands of others—application—notice—claims for damages. Section nineteen hundred fifty-five (1955) of the code is hereby repealed and the following substituted therefor:

“Whenever the owner of any land shall desire to construct any levee, open ditch, tile or other under-ground drain, for agricultural, sanitary or mining purposes or for the purpose of securing more complete drainage or a better outlet, across the lands of others, or across or through the right-of-way and road bed of a railroad, and shall be unable to agree with the owner of any such lands, or with any such railroad company, through whose land or property he desires to construct the same, with regard to the location or manner of constructing any such ditch, drain or levee, or with regard to the compensation to be made, or with regard to any other matter properly connected therewith, he may file with the township clerk of the township in which any such land or right-of-way is situated, an application in writing, setting forth a description of the land or other property through which he is desirous of constructing any such levee, ditch or drain, the starting point, route, terminus, character, size and depth thereof. Upon the filing of any such application, the clerk shall forthwith fix a time and place for hearing thereon before the township trustees of his township, which hearing shall be not more than ninety (90) days nor less than thirty (30) days from the time of the filing of such application and thereupon the township clerk shall cause notice in writing to be served upon the owner of each tract of land across which any such levee, ditch or drain is proposed to be located, as shown by the transfer books in the office of the county auditor, and also upon the person in actual occupancy

of any such lands of the pendency and prayer of such application, the time and place set for hearing on the same before the township trustees, which notice, as to residents of the county and railroad companies, shall be served not less than ten (10) days before the time set for such hearing, in the manner that original notices are required to be served. In case any such owner is a non-resident of the county, such notice as to him shall be posted in three (3) public places within the township where his land is situated at least fifteen (15) days before the time set for such hearing, one of which places shall be upon the land of which he is the owner. Such notices may be served upon a railroad company by serving the same upon its nearest station agent. If at the hearing it should appear that any person entitled to notice, as provided herein, has not been served with notice as herein provided, the township trustees may postpone such hearing and fix a new time for the same and notice of such new day of hearing may be served on such omitted persons in the manner and for the same length of time provided herein, and by fixing such new day for hearing and by adjournment of the proceedings to such time, the trustees shall not be held to have lost jurisdiction of the subject matter of such proceeding nor of any persons previously served with notice. Any person or corporation claiming damages as compensation for or on account of the construction of any such improvement, shall file a claim in writing therefor with the township clerk at least two (2) days before the day fixed for hearing on the application and a failure to file such claim at the time specified shall be deemed to be a waiver of the right to claim or recover such damage. The term "lands" as used in this and the next section shall include right-of-way and other real estate of a railroad company."

SEC. 2. Repeal—hearing—action of trustees. Section nineteen hundred fifty-six (1956) of the code is hereby repealed and the following substituted therefor:

"At the time set for hearing on any such application, the trustees, if they are satisfied that the provisions of the preceding section have been complied with, shall proceed to hear and determine the sufficiency of the application as to form and substance, which application may be amended both as to form and substance before final action thereon. They shall also determine the merits of the application, all objections thereto and all claims filed for damages that may be occasioned by the location and construction of the proposed drainage improvement, and, if deemed necessary, the trustees may view the premises. The trustees may adjourn the proceedings from day to day, but no adjournment shall be for a longer period than ten (10) days. When the time for final action shall have arrived, the township trustees shall, if they find that the levee, ditch or drain petitioned for will be beneficial for sanitary, agricultural or mining purposes, locate the same and fix the points of entrance and exit on such land or property, the course of the same through each tract of land, the size, character and depth thereof, when and in what manner the same shall be constructed, how kept in repair, what connections may be made therewith, what compensation, if any, shall be made to the owners of such land or property for damages by reason of the construction of any such improvements, and any other question arising in connection therewith. The trustees shall reduce their findings, decision and determination to writing, which shall be filed with the clerk of such township, who shall record it in his book of records, together with the application and all other papers filed in connection therewith, and he shall cause the findings and decision of the trustees to be recorded in the office of the county recorder of the county in which such land is situated, and said decision shall be final unless appealed from as provided in the next section."

SEC. 3. Location through or across railroad lands—costs and damages. Section nineteen hundred fifty-nine (1959) of the code is hereby amended by adding after the period at the end thereof, the following:

“If any such ditch or drain shall be located through or across the right-of-way or other land of a railroad company, the trustees shall determine the cost of constructing the same across and through such property and the railroad company shall have the privilege of constructing such improvement through its property in accordance with the specifications made by the trustees and recover the cost thereof as fixed by the trustees. But such railroad company before it may exercise such privilege shall file its election to that effect with the township clerk within five (5) days after the decision of the trustees is filed, and in case such election is filed the applicant shall within ten (10) days thereafter pay to the township clerk for the use of the railroad company, the cost of constructing the drainage improvement through its property, in addition to the amount that may be allowed as damages; and when the railroad company shall have completed the improvement through its property in accordance with such specifications it shall be entitled to demand and receive from the township clerk such cost. If the railroad company shall fail to so construct the improvement for a period of thirty (30) days after filing its election so to do, the applicant may proceed to do so and may have returned to him the cost thereof deposited with the township clerk.”

Approved April 16, A. D., 1909.

CHAPTER 118.

LEVEES, DITCHES, DRAINS, WATER COURSES AND DRAINAGE DISTRICTS.

H. F. 495.

AN ACT to amend the law as it appears in sections nineteen hundred eighty-nine-a two (1989-a2), nineteen hundred eighty-nine-a five (1989-a5), nineteen hundred eighty-nine-a six (1989-a6), nineteen hundred eighty-nine-a seven (1989-a7), nineteen hundred eighty-nine-a eight (1989-a8), nineteen hundred eighty-nine-a ten (1989-a10), nineteen hundred eighty-nine-a twelve (1989-a12), nineteen hundred eighty-nine-a thirteen (1989-a13), nineteen hundred eighty-nine-a fourteen (1989-a14), nineteen hundred eighty-nine-a sixteen (1989-a16), nineteen hundred eighty-nine-a eighteen (1989-a18), nineteen hundred eighty-nine-a twenty-two (1989-a22), nineteen hundred eighty-nine-a twenty-nine (1989-a29), nineteen hundred eighty-nine-a thirty-two (1989-a32), nineteen hundred eighty-nine-a thirty-five (1989-a35), nineteen hundred eighty-nine-a forty-four (1989-a44), of the supplement to the code, 1907, and to repeal sections nineteen hundred eighty-nine-a three (1989-a3), nineteen hundred eighty-nine-a eleven (1989-a11) and nineteen hundred eighty-nine-a nineteen (1989-a19) of the supplement to the code, 1907, and enact substitutes therefor; and to enact sections of law additional to chapter two-a (2-a) of title ten (X) of the supplement to the code, 1907. All relating to the subject of waters, water courses, levees, drains, and drainage districts.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Lands benefited included in surveyor's report. That the law as it appears in section nineteen hundred eighty-nine-a2 (1989-a2) of the supplement to the code, 1907, be amended by inserting after the word “district”, in line thirty, the following: “so as to include therein all lands that will be benefited by the proposed improvements”.

SEC. 2. Survey and location. That the law as it appears in section nineteen hundred eighty-nine-a2 (1989-a2) of the supplement to the code, 1907, be amended by inserting after the word “shall” in line thirty-six, the words, “so far as practicable”; also by striking out from lines thirty-nine and forty of said section the words, “having due regard for straightening and shortening of such natural streams, water courses, and course of natural drainage”, and inserting in lieu thereof the following: “but where it will be more economical or practicable such ditch or drain need not follow the course of such natural streams,