

WORTHLESS CHECKS POLICY

- 1) You have a choice as to how to proceed with your worthless check. Under Wisconsin law you have the option of using a civil remedy through a collection agency or referring it to the District Attorney's Office for criminal charges.
- 2) Before commencing criminal prosecution you may want to consider recovery under the civil procedure established under Section 943.245. The civil procedure allows for recovery of the face value of the check, exemplary damages (up to three times the face value and actual damages) and attorney's fees. The amount of exemplary damages and attorney's fees cannot exceed \$500.00. Due to manpower and resource constraints, if you decide to use a collection agency or civil procedure we will no longer process the worthless checks in criminal proceedings.
- 3) The District Attorney's Office **will only** accept the following types of checks:
 - Check marked "Insufficient Funds."
 - Check marked "Account Closed OR Closed Account."
 - Check marked "NSF."
 - Check marked "WORTHLESS."
- 4) The following types of checks are civil matters and cannot be prosecuted criminally according to the statutes and case law of the State Of Wisconsin. If you are presented with any of the following types of checks your remedy is civil, you can contact a collection agency, a private agency, or Small Claims Court to assist you in collecting on the check. The types of checks for which our office **cannot** prosecute are as follows:
 - A check that is post-dated.
 - A check that is for past consideration, i.e., rent, balance due,...
 - A third party check.
 - A check that has been held pursuant to an agreement between you and the check issuer.
 - A check on which you have taken partial payment.
- 5) In order to successfully prosecute a person for issuing a worthless check the person who accepted the check must be able to identify the check and the individual cashing said check. Insist that your employees include the following information on the check:
 - The initials of the employee who accepts the check.
 - The driver's license or Wisconsin ID number of the check issuer.
 - The date of birth of the check issuer.

The employee should compare the writer's description and signature with such identification.
- 6) A certified letter with return-receipt requested must be mailed to the person who wrote the check. The letter should state they have five (5) days to pay for the check or it will be turned over to the District Attorney's Office for criminal prosecution. **This includes all worthless checks, account closed, insufficient funds or no account.**
- 7) If restitution is not made to you in the time period specified in your above-mentioned letter the original check, a copy of the letter, the bad check information

sheet and the green return-receipt from the post office must be mailed to the district Attorney's Office within sixty (60) days from the date the check is written. **WE WILL NOT ACCEPT CHECKS TURNED IN AFTER THE SIXTY (60) DAY PERIOD.**

- 8) The bad check information sheet **MUST BE FILLED OUT COMPLETELY AND PRINTED OR TYPED LEGIBLY.** This information is needed for drafting of the criminal complaint and the prosecution of the case. **INCOMPLETE FORMS WILL BE RETURNED AND NO PROSECUTION WILL BE COMMENCED UNLESS ALL INFORMATION IS PROVIDED WITHIN THE SIXTY (60) DAY PERIOD.**
- 9) Once the check is brought to the District Attorney's Office it is the responsibility of the District Attorney to decide whether to prosecute. Even if a person makes restitution to you, you **CANNOT** promise to withdraw or dismiss the charge. If the person is present in the store and you have any questions regarding accepting restitution please call the District Attorney's Office. If full payment is accepted at your store please remember to mail or fax a receipt on your business stationary to the District Attorney's Office to report this payoff. Prosecution of any charge is at the discretion of the District Attorney. Any individual whose total worthless checks referred to the District Attorney that does not total \$20.00 will not be prosecuted.
- 10) **OUT OF STATE CHECKS ARE ACCEPTED AT YOUR OWN RISK.** Extradition is not pursued in a misdemeanor case.
- 11) If the bank indicates possible forgery as the reason for returning the check immediately contact your local police department for investigation.

THE DISTRICT ATTORNEY'S OFFICE WILL NEED THE FOLLOWING BEFORE A CRIMINAL COMPLAINT CAN BE ISSUED:

- 1) THE ORIGINAL CHECK
- 2) THE NOTICE OF DELIVERY (THE GREEN CARD) OF THE FIVE-DAY DEMAND LETTER BY THE U.S. POSTAL SERVICE AND A COPY OF THE LETTER OF UNDELIVERED ENVELOPE AND LETTER. MAKE SURE THIS IS SENT RETURN RECEIPT REQUESTED. THIS IS YOUR PHYSICAL PROOF TO THE COURT THAT YOU DID ATTEMPT TO NOTIFY THE CHECK WRITER.
- 3) A COMPLETED WORTHLESS CHECK INFORMATION FORM.
- 4) THE CHECK COLLECTION WORKSHEET

Your cooperation is appreciated in helping us successfully prosecute bad check writers. If you have any questions regarding this procedure please contact the District Attorney's Office at (920 448-4190).

Brown County District Attorney
300 East Walnut Street
Green Bay, Wisconsin 54301
Phone: (920)448-4190
Fax: (920)448-6203

David L. Lasee
District Attorney

WORTHLESS CHECK REFERRAL
Please fill in the form as completely as possible.

COMPLAINANT (Individual or company holding the bad check)

Name: _____ Telephone Number: _____
Address: _____
(Street) (City) (Zip) (Township)

Check:

Payable To: _____ Amount: _____
Check #: _____ Date Cashed: _____ Bank Drawn On: _____
Date First Presented to Bank: _____ How Often: _____
Reason Refused by Bank: NSF ___ Account Closed ___. Was Check Post Dated: _____
Was check for: Merchandise ___ Cash ___ Both ___ Explain: _____
Was check received in payment of an account of debt? Y/N. Explain: _____

Defendant

Name of Person Signing Check: _____ Telephone #: _____
Address: _____
(Street) (City) (Zip) (Township)
Did he/she personally cash check? _____ If yes, amount: \$ _____

Person Accepting Check:

Name: _____ Position: _____
Address: _____ Telephone: _____
Does he/she remember what the defendant looks like? ___ Knows defendant personally? ___
Did he/she agree to hold the check before presenting it to the bank? _____

If possible, the District Attorney's Office will obtain restitution for your check. However, it must be remembered, this check is being presented to the District Attorney for **CRIMINAL PROSECUTION, AND FROM THIS POINT ON, ITS HANDLING IS FULLY WITHIN HIS DISCRETION.** The undersigned agrees to cooperate fully in this prosecution, **WILL NOT ACCEPT PAYMENT WITHOUT THE APPROVAL OF THE DISTRICT ATTORNEY'S OFFICE** and certifies that the above facts are true.

I hereby acknowledge my rights as a victim under Wisconsin Chapter 950 in this worthless checks case. At this time I wish to exercise my right to restitution. I authorize the District Attorney's Office to proceed in this matter with the understanding I will be subpoenaed for any court dates if my testimony is necessary.

By: _____ Date: _____

DEMAND FOR PAYMENT OF DISHONORED CHECK

Date: _____

To: _____

WARNING: This check will be turned over to the District Attorney's Office for prosecution if not paid within five (5) days.

Your check in the amount of \$ _____ dated _____ payable to the order of _____ has been dishonored by the bank upon which it was drawn.

THIS LETTER IS A DEMAND FOR PAYMENT.

Please send us immediately a money order or pay cash in person for the following amount:

Amount of check \$ _____
Service charge \$25.00
Total to be paid: \$ _____

If you do not make payment you may be sued under Section 943.245 of Wisconsin Statutes to recover payment. If a judgment is rendered against you in court it may include not only the original face amount of the check but also additional damages as follows:

- 1) The original amount of the check.
- 2) Damages of three times the amount of the check up to \$500.00.
- 3) All court costs, attorney's fees and service charges.

Please mail your payment [money order or certified check] promptly to:

You should be aware that these damages are allowed by law in a CIVIL action and do not take the place of any criminal prosecution that may be imposed on you by local law enforcement officials.

Sincerely,

Store Manager

CHECK COLLECTION WORKSHEET

Name _____ Check Number _____ Amount \$ _____
 Address _____ Bank _____
 City/State _____ Account Number _____
 Phone # _____ Reason Returned _____
 I.D. # _____ D.O.B. _____
 Checker Name _____ Date Payment Made: _____

Date	Time	Action Taken	Full Name

PLEASE RETURN TO THE DA OFFICE WITH WORTHLESS CHECK REFERRAL

LOSS CONTROL TIPS AND SUGGESTIONS

- A. Be careful with starter checks and low numbered checks which could indicate a new account opened to bounce checks.
- B. Be cautious with out-of-town checks. Out-of-town individuals may travel Brown County and bounce dozens of checks in a day.
- C. Have employees initial or stamp the checks they take so you know who accepted the check. The individual teller/cashier may have to testify in court.
- D. Always require photo identification and train cashiers to actually look at the photograph and compare to the customer. In addition, write the license number on the check. Also, verify the address on the check and ask the issuer if it is the most current address.
- E. On large checks call the customer's bank and verify an open account with funds to cover the check.
- F. If the same customer cashes several checks in one day or in an unusually short time frame call the bank. If the same customer returns merchandise for cash credit while making more purchases, call the bank or take other precautions.
- G. Check written for small priced items but for large amount of extra cash sometimes indicate a worthless check.
- H. Turn bad checks over to District Attorney promptly. Other merchants may have done so for the same defendant which reveals a serious bad check scheme.
- I. Businesses should keep a file on those individuals who have presented their business with checks which were dishonored for a one year period from notice of the first bad check. This should prevent you from accepting bad checks from previous bad check writers.