

Dear Complainant:

This letter is to indicate the requirements and procedure for the handling of bad checks.

First of all, we need you or your employees to make sure you have the person's current address and telephone number. This means that when you obtain the person's address, please make sure that you have a street address in addition to the Post Office Box or R. F. D. address so that we may locate the person.

The employee should put his/her initials or identifying number somewhere on the check showing that he/she was the one taking the check. The reason for this is that you or your employee will be needed to testify in court to the fact that they took the check.

As soon as you receive the check from the bank, please start to fill out the Bad Check Report. The longer the delay in filling out the report the less likely that the employee will remember the details of receiving the check.

I know this seems like a lot of work for every check but this information is extremely vital. As soon as the check is returned for non-sufficient funds you are required by law to send the negotiator a five-day notice. You should serve a written notice in person if it is at all possible. If that is not possible, we would encourage the use of certified mail, restricted delivery, so that the person does not later argue that the person who signed the notice did not notify him/her. If the person refused to sign for certified mail, then send written notice by regular mail. As a last resort, provide oral notice to the writer and document the call. The negotiator has not committed a crime until after the five-day notice has expired and he has not taken care of the check.

If the check is written on a closed account, we still require that a five day notice be sent. We have found that all too often, even when the check is stamped "account closed", it was closed after the check was written. So that this problem may be alleviated, a five-day notice must be sent on all bad checks.

If you send a notice by certified mail, and it is not accepted, you may bring the Bad Check Report, the check and a copy of the five-day notice to the police department. We will attempt to locate the person for you and serve a five-day notice. For obvious reasons, we can not promise to locate the person(s).

If the five-day notice is sent, accepted and still not taken care of within five working days, you may bring the check and the five-day notice to the law enforcement agency for prosecution.

If the person takes care of the check with you, you are asked to both call and notify the department and the Office of the District Attorney immediately. If the case either is approved or has already been approved and the person fails to appear, an arrest warrant is issued. If the person has already resolved the matter with you and you have failed to notify us, you may be liable for a false arrest.

If you believe that the person has also written other checks I the community, please contact your local police department immediately for further action and information.

If the above requirements for returned checks are not met, we will be unable to accept the check until they are. Please understand that we have to follow the Maine State Law and that is why these requirements have been asked of you.

Thank you very much for your cooperation. We look forward to working with you and doing everything we can in keeping the problem to a minimum. If you have any questions, please contact us.

Respectfully,

Chief of Police

To be completed by the complainant

BAD CHECK REPORT

Business Name: _____

Business Address: _____

Business Phone: _____

Person Making Report: _____

Job Title: _____

Home Address: _____

Home Phone: _____

A. Check Information

1. Full address of place where check was accepted: _____

2. Check #: _____ Amount of check: \$ _____

3. Date the check was accepted: _____

4. Any service charge imposed on the business: _____

5. Name of the person who presented the check: _____

B. Information on check presenter (to be completed by the person who actually received the check)

1. Your name: _____

2. Home address: _____

3. Home phone: _____

4. Description of the person passing the check: Race: _____ Age: _____ Ht: _____

Wt: _____ Hair color: _____ Hair length: _____ Other: _____

5. Name given by the passer: _____
6. Passer claimed employment at: _____
7. Phone number of passer: _____
8. Address of passer: _____
9. Was photo ID used: yes _____ no _____ Driver License #: _____
Other identification used: _____
10. Description of automobile used: Make _____ Model _____
Color _____ Other marks _____ License plate # _____
11. Description of any other person(s) with the passer, include name if known: _____

12. Name and phone number of other witnesses to the transaction: _____

C. **Passer information** (please circle the proper response)

1. Do you remember the transaction? Yes No
2. Was the passer known to you? Yes No If yes, how? _____
3. As the person who accepted the check, can you identify the passer? Yes No
4. What did the passer obtain in exchange for the check?
(a) Credit for a bill (b) Cash, amount: \$ _____
(c) Service (d) Merchandise (please list) _____
5. Was the check post-dated and/or did the passer ask you to hold the check for a future date? Yes No
6. Was there any conversation regarding the passer's ability to pay the check at the time that it was passed? Yes No
If yes, what? _____
7. Did the passer write the check and/or endorse the check in your presence? Yes No

8. Did you initial, mark, or write on the check at the time you accepted it? Yes No
If yes, what? _____

9. Did the passer make any statements about the check? _____

D. **Collection information** (to be filled out by the person making the report)

1. Please detail what steps you or your employees have taken to contact the suspect or recover your losses: _____

By whom: _____

When: _____

Where: _____

Results: _____

2. Has the passer attempted to make restitution? Yes No
If so, please give details: _____

3. Have you successfully served a 5 day statutory bad check notice on the passer?

Yes No If yes, how? () Certified Mail () Personal Service

4. Do you feel that the passer of the check intended to defraud you when he/she passed the check? Yes No

5. Have you retained an attorney or turned this matter over to a collection agency in an attempt to collect the check? Yes No If so, whom: _____

6. Was there any dispute over the quality of goods or service received by the passer? Yes No If yes, please describe: _____

NOTE:

Please indicate on the reverse side of this form anything you feel would help in locating and prosecuting this person.

The decision whether or not to prosecute this individual will be made by a representative of the District Attorney's Office who will take into account numerous factors including what evidence exists of intent to defraud, identification and the availability of necessary bank records. Criminal prosecution does not guarantee restitution as prosecution is designed to punish, not to collect debts. If you agree to prosecute this defendant, you cannot drop the charge if he/she offers to pay the check. If a criminal case cannot be proven, the check will be returned to you upon request.

I hereby understand and agree that all the information contained in this document is to be used by and disseminated among all law enforcement agencies, the Office of the District Attorney and the Courts. I also understand and agree that this check is being submitted for criminal prosecution and that if criminal prosecution is instituted, it will be necessary for those persons having knowledge of the facts to appear and testify in court.

I hereby certify that no one has accepted full or partial restitution for this particular check as of this date, and I further agree, I will notify the Office of the District Attorney and the law enforcement department if restitution is made.

I hereby certify that I have read and understand the directions for this form, and that all of the facts written herein are to the best of my knowledge, true, accurate and complete. Further, I am aware that a person who KNOWINGLY makes false written statements which he knows are not true, is subject to prosecution of a crime punishable as a Class D crime under 17-A M.R.S.A §453.

Date: _____ Signature: _____
Title: _____

5 Day notice to be served by business or person accepting the check

To: _____

My business _____, has received,
from you, a check which has been returned from the bank.

Because of: () insufficient funds () account closed () other

Check # _____ Dated: _____ In the amount of \$ _____

Check # _____ Dated: _____ In the amount of \$ _____

Check # _____ Dated: _____ In the amount of \$ _____

Made out to: _____

And signed by: _____

I am requesting that you mail a certified check or money order to my business at the address listed below. As an alternative, you may stop by and pay cash in person to: _____.

Please be advised that this letter constitutes your five (5) day notice as required by Title 17-A Maine Revised Statutes Annotated Section 708.

If this matter is not taken care of within the prescribed five days, it may be deemed prima facie evidence that **FRAUD** was intended at the time the check was issued.

At the end of the five days, we will refer this matter to the local police department for criminal prosecution.

Please contact us as soon as possible to avoid that result.

Dated: _____ Signed: _____

Address: _____
