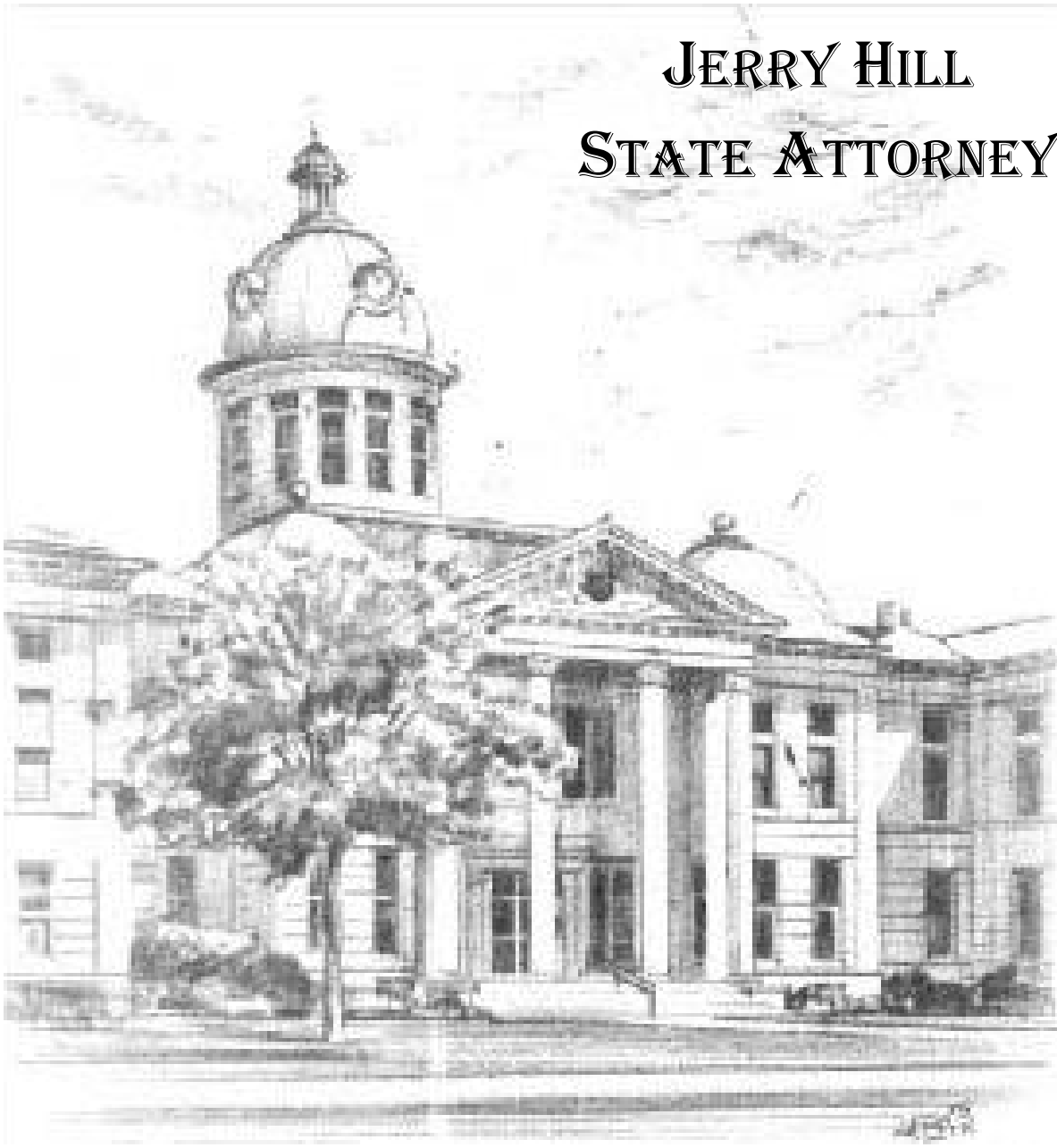


OFFICE OF THE STATE ATTORNEY, TENTH JUDICIAL CIRCUIT



WORTHLESS CHECK DIVERSION PROGRAM

JERRY HILL
STATE ATTORNEY



WORTHLESS CHECK PROCEDURES

I. STATUTORY NOTIFICATION:

In order to begin the process to collect reimbursement on a worthless check, the law requires that you (the victim) officially notify the person who gave you the worthless check for which you are seeking reimbursement. You can do this in one of two ways:

A. Registered or Certified Mail:

1. You may send the check writer a registered or certified notification letter to the address printed on the check or given at the time it was written. A form letter, which is outlined in Florida Statute 832.07, is included in this package and entitled: "Worthless Check Letter." Proof of sending this letter by registered or certified mail is required before criminal charges can be filed.

B. First Class Mail:

1. You may send the check writer a First Class notification letter to the address printed on the check or given at the time it was written. A form letter, which is outlined in Florida Statute 832.07, is included in this package and entitled: "Worthless Check Letter." If you send a notification letter by First Class mail, an "Affidavit of Service of Mail," which is also included in this package, is required to be filled out before criminal charges can be filed.

II. **PROCEDURE:**

- A. The person who wrote the worthless check has fifteen (15) days from the date the letter is mailed to pay the check recipient the full amount of the check, plus a returned-check charge. The returned-check charges allowed by law are:
- \$25.00 for each check in the amount of \$50.00 or less.
 - \$30.00 for each check in the amount of \$50.01 up to \$300.00.
 - \$40.00 – or- an amount equal to 5 percent of the face value of the check, whichever is greater – for each check in the amount of \$300.00 or more.
- B. After the fifteen (15) day period has elapsed, and in the event the check recipient has not received restitution and service charges, the prosecution of criminal charges may begin.
- C. A notification letter, whether it be registered/certified or sent via First Class mail, must be sent for all returned checks, except when the check is returned and marked "NO ACCOUNT" or "ACCOUNT CLOSED." Forged checks are not considered "worthless checks" for purposes of the Worthless Check Diversion Program. Check-forgery complaints should be filed as such with the law enforcement agency in the jurisdiction in which the check was uttered or forged.
- D. **REMEMBER:** The **IDENTITY** of the person who wrote the worthless check **IS REQUIRED** for prosecution. Under the law, prima facie evidence of identity exists when you obtain a Driver's License number or State Identification number showing state of issuance along with presenter's full name, residential address, home phone number, business phone number, place of employment, sex, date of birth and height.

III. FILING CRIMINAL CHARGES

- A. Should you decide to pursue criminal charges, you first need to go to the law enforcement agency that has jurisdiction over the location where the worthless check was issued. If it occurred in a city, file a complaint with that city's police department. If it occurred outside any city limits, file a complaint with the Sheriff's Office.
- B. The following documents must be presented when filing a criminal complaint:
 - 1. The original check(s).
 - 2. The return receipt card (green card) from the notice, or the returned, unopened envelope containing the notice. (If you send notification to the check issuer by certified/registered mail.) - OR - the "Affidavit of Service of Mail" if you send notification by First Class mail. In either case, include a copy of the actual letter of notification.
 - 3. Complaint Forms, which will be provided by the law enforcement agency for you to complete.
 - 4. Any and all contracts, receipts or other supporting documents.

IV. WORTHLESS CHECK DIVERSION PROGRAM

- A. The law enforcement agency will forward the complaint affidavit, check(s) and any supporting documents to the State Attorney's Office.
- B. The State Attorney's Office may send a courtesy letter or summons to the person who passed the worthless check(s).
- C. If the check writer does not make restitution, the complaint will be reviewed for prosecution.
- D. Procedures outlined in this booklet must be followed and affidavits completed correctly to avoid rejection.

INFORMATION FOR ACCEPTING CHECKS

- 1) **DO** be sure you can positively identify the person giving you or your employee(s) the check(s).
- 2) **DO NOT** accept a post-dated check (a check assigned a later date than the actual date, i.e. a check written on January 1 should not be dated January 2). The State Attorney's Office cannot prosecute post-dated checks or checks that are held for depositing or cashing on a future date.
- 3) **DO NOT** agree to hold a check for **ANY** length of time. If you do, you acknowledge the check is worthless.
- 4) **DO NOT** delay filing a complaint affidavit with law enforcement.
- 5) **DO** send a certified/registered letter or a First Class letter, as already outlined, if a check is returned, except for checks marked: "Account Closed" or "No Account."
- 6) **DO** make sure the bank stamps the check, indicating the reason it was dishonored. Without the stamp, prosecution is not possible.

WHY SHOULD A NOTIFICATION LETTER BE SENT?

- 1) The law requires it.
- 2) It allows you to collect a service charge, as already outlined.
- 3) It generates restitution and returned-check charges, which should more than offset the cost of sending certified/registered or the cost of First Class mail.
- 4) It strengthens the prosecutor's case should the defendant go to trial because it increases a presumption of guilt.
- 5) It gives the prosecutor a physical piece of evidence to support your testimony regarding the transaction.
- 6) The letter gives immunity from civil liability under Florida Statute 832.07.

In order for the State Attorney's Office to prosecute a worthless check, it is necessary that the check recipient be able to identify the individual who issued the check.

- 1) If you personally know the check writer and can identify that person, you must write on the check that person's Driver's License number, the state in which it was issued, and the person's date of birth. Initial your notations to indicate that you made them. Compare the signature on the check to the signature on the license.
- 2) If you do not know the check writer and cannot identify that person at a later date, you should do the following:
 - a. Compare the signature on the check to the signature on that person's Driver's License. Look at the picture on the Driver's License to make sure the check writer is the same person whose picture is on the Driver's License. If the check writer does not have a Driver's License, then a picture identification or military identification is acceptable.
 - b. Write the Driver's License number or picture identification number on the back of the check. Also, write on the check the state in which the Driver's License or identification card was issued.
 - c. If it's not already pre-printed, write the person's full name, residential address, birth date, sex, race, height, home phone number, place of employment, and business phone number on the front of the check.
- 3) If you use a check-cashing card, the check cashing card application should have the information as outlined in Paragraph 2-C. It should also have the check writer's signature. The check-cashing card should have a check-cashing card number and signature matching the application on file. Compare the signature on the person's Driver's License with the signature that person signs on the check-cashing card. Also, compare the signature on the check to the signature on the check-cashing card.
- 4) If you accept a two-party check, you are at risk, because you must provide all the elements of Paragraph 2-C to identify the first party in order to prosecute.

- 5) A check obtained by mail, or by a delivery service, should be handled as follows:
- The check recipient should have all elements listed in Paragraph 2-C and Paragraph 3, or an original contract, original order or original request for services for which the check purports to pay. The check must have a signature. Attached is a sample form that can be used for this purpose.

If you intend to use a company check when your orders arrive, please fill out the information below and mail in the envelope provided. Be sure to fill in the name of your bank and sign your name. If other persons are authorized to sign your company check, their information is also needed as well as their signature(s) below:

LAST {PLEASE PRINT}:			FIRST:	MIDDLE INITIAL:
RACE/SEX	HT/WT	HAIR/EYES	SIGNATURE:	
NAME OF BANK:		ADDRESS:		ACCOUNT NUMBER:
DATE OF BIRTH	DRIVER'S LICENSE NUMBER:		STATE:	SOCIAL SECURITY NUMBER:

If other person will be signing company check, complete the following information:

LAST:			FIRST:	MIDDLE INITIAL:
RACE/SEX	HT/WT	HAIR/EYES	SIGNATURE:	
HOME ADDRESS:		CITY :	STATE:	ZIP:
DATE OF BIRTH:	DRIVER'S LICENSE NUMBER:		STATE:	SOCIAL SECURITY NUMBER:

WORTHLESS CHECK LETTER

Date: ____/____/____

TO: _____

Per Florida State Statute 832.07, you are hereby notified that a check numbered _____, in the face amount of \$_____, issued by you on ____/____/____, drawn upon _____, has been dishonored. Pursuant to Florida law, you have 15 days from date of this notice to pay the full amount of the check plus a returned check charge of:

- \$25.00 for each check in the amount of \$50.00 or less.
- \$30.00 for each check in the amount of \$50.01 up to \$300.00.
- \$40.00 – or- an amount equal to 5 percent of the face value of the check, whichever is greater – for each check in the amount of \$300.00 or more.

The total amount due from you is \$_____. Unless this amount is paid in full within the time specified above, I will turn over the dishonored check and all other available information relating to this incident to the State Attorney's Office for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50, plus the amount of the check, a service charge, court costs, reasonable attorney fees and incurred bank fees, as provided in Florida Statute 68.065.

DO NOT MAIL CASH! If you would like to pay by cash, please call to make arrangements. Otherwise, send a cashier's check or money order made payable to:

Name: _____
Address: _____

PERSONAL CHECKS WILL NOT BE ACCEPTED.

If you would like your check returned, enclose a self-addressed, stamped envelope with your repayment, otherwise your check will be destroyed.

Name of business or individual receiving check

Signature of owner, employee, agent or individual

AFFIDAVIT OF SERVICE OF MAIL

I, _____, being duly sworn,
do hereby state that I mailed on _____, 20_____ a
copy of the attached letter by First Class mail to:

Name: _____

Address: _____

City, State, Zip: _____

at the address printed on the check, which is the subject of the letter, or to the address
given at the time the check was issued.

Signature of Affiant (letter sender)

Sworn to or affirmed and subscribed before me this _____day of
_____, 20_____ by _____,
who is _____ Personally Known to me OR has_____ Produced Identification. Type of
Identification Produced: _____.

Notary Public

(Seal)

THIS

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly)	B. Date of Delivery
1. Article Addressed to: MR. CHARLEY SMITH 456 HURRICANE ALLEY BARTOW, FL 33830		C. Signature X	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
2. Article Number (Copy from service label) 7099-3220-0007-3017-2714		D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input type="checkbox"/> No
PS Form 3811, July 1999		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
		102595-00-M-0952	

NOT THIS

7099 3220 0007 3017 2714

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
Article Sent To: MR. CHARLEY SMITH	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.98
Name (Please Print Clearly) (To be completed by mailer) MR. CHARLEY SMITH	
Street, Apt. No.; or PO Box No. 456 HURRICANE ALLEY	
City, State, ZIP+ 4 BARTOW, FL 33830	
PS Form 3800, July 1999	See Reverse for Instructions

Sheriff's Office

Polk County Bartow, Florida

WORTHLESS CHECK
AFFIDAVIT

PCSO Form #211

Agency ORI Number
FL 0530000

Incident Number

IN THE CIRCUIT/COUNTY COURT IN THE TENTH JUDICIAL CIRCUIT IN AND FOR POLK COUNTY, FLORIDA

OBTS # _____ (Please type or print legibly)

Name of Checkwriter (as signed): **SAMPLE** Sex _____ Race _____
 Height _____ Weight _____ Date of Birth _____ Hair _____ Eyes _____
 Soc Sec No _____ Driver's Lic # _____ State _____
 Address: _____
 Home Ph. _____ Bus Ph. _____ Employer _____
 Bus Address _____

THE UNDERSIGNED, UNDER OATH, STATES that the above named checkwriter did draw, make, utter, issue or deliver a worthless check, the original submitted with this affidavit, in violation of Section 832.05, Florida Statutes, and that the answers to the following questions are true and correct.

Check # _____ in the amount of \$ _____ dated _____ and made payable to _____ and drawn on the account of _____ account # _____ was received on (date) _____ and was returned for the following reason: NSF (), ACCT. CLOSED (), NO ACCT. (), STOP PAYMENT (), UNCOLLECTED FUNDS (), REFER TO MAKER (), OTHER _____ and was received for: PAYMENT ON ACCT/DEBT (), RENT (), WAGES (), CASH (), MERCHANDISE (), or SERVICES ().

1. City and County where check was recieved _____
2. Was the check post dated? (dated ahead) () YES () NO
3. Were you asked to hold or delay deposit? () YES () NO
4. Was the check delivered personally by checkwriter? () YES () NO
5. Was the check delivered by a person other than checkwriter? () YES () NO
6. Was the check sent by mail? () YES () NO
7. Did Checkwriter sign an order or contract for which the mailed check was payment? (If yes, attach copy) () YES () NO
8. Was a certified letter mailed to the check writer? () YES () NO
9. Can the person who accepted the check identify the checkwriter? () YES () NO
10. Do you have a check cashing card for the checkwriter? () YES () NO
(If yes, card # _____)
11. Was the check cashing card # recorded on the check? () YES () NO
12. Did the person accepting the check initial the check? () YES () NO
13. Was a photograph made of the person writing the check? () YES () NO
14. Have you ever received a bad check from the person before? () YES () NO
(If yes, how many times? _____)

Signature of Complainant _____

Name of Business & Title of Complainant _____

Home Address _____

Business Address _____ Phone No. _____

Sworn to and subscribed before me this _____ day of _____,

Notary Public _____

Sheriff's Office

Polk County Bartow, Florida

WORTHLESS CHECK
AFFIDAVIT

PCSO Form #211

Agency ORI Number
FL 0530000

Incident Number

IN THE CIRCUIT/COUNTY COURT IN THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

WORTHLESS CHECK WITNESS FORM
(Attach to Worthless Check Affidavit)

PERSON WHO ACCEPTED THE CHECK:

Name: _____ Address: _____

Home Phone: _____ Business Phone: _____

Date of Birth: _____ Sex _____ Race _____ Occupation: _____

PERSON WHO AUTHORIZED ACCEPTANCE OF THE CHECK:

Name: _____ Address: _____

Home Phone: _____ Business Phone: _____

Date of Birth: _____ Sex _____ Race _____ Occupation: _____

PERSON WHO SIGNED THE 7-DAY LETTER-CERTIFIED RETURN RECEIPT: (If Known)

Name: _____ Address: _____

Home Phone: _____ Business Phone: _____

Date of Birth: _____ Sex _____ Race _____ Occupation: _____

CUSTODIAN OF THE RECORDS (If Victim a Business):

Name: _____ Address: _____

Home Phone: _____ Business Phone: _____

Date of Birth: _____ Sex _____ Race _____ Occupation: _____

OTHER WITNESS:

Name: _____ Address: _____

Home Phone: _____ Business Phone: _____

Date of Birth: _____ Sex _____ Race _____ Occupation: _____

OTHER WITNESS:

Name: _____ Address: _____

Home Phone: _____ Business Phone: _____

Date of Birth: _____ Sex _____ Race _____ Occupation: _____
