

## PROTECT YOURSELF FROM WORTHLESS CHECKS

1. Obtain information at the time the check is passed that will assist in identification. If you have not instituted a check cashing card program, obtain the following information and place it on the check at the time of issuance. Ensure that the photo on the identification is the same person who signed the check (match the photo with the person).
  - a. Full name
  - b. Current residence address (not a P.O. Box)
  - c. Home telephone number
  - d. Place of employment
  - e. Work telephone number
  - f. Sex
  - g. Date of birth
  - h. Height
  - i. Driver license or state ID card number & state
2. Require that the signature on the check be made in the presence of the person accepting the check.
3. The person accepting the check should always initial the check to indicate that he/she witnessed the signature.
4. Beware of starter checks. Require all items be legibly filled in and complete. Check the maker's signature and ensure the check is not postdated. Ensure the same amount is expressed in numerals and words.
5. The person accepting the check should make a visual comparison between the endorsement on the check and identification presented.
6. **DO NOT** accept third party checks.

## When a Worthless Check Cannot Be Prosecuted

1. The check was postdated.
2. The person accepting the check was asked by the maker to hold the check for some period of time.
3. The person who took the check was informed or had good reason to believe that the check was not good when given.
4. The check was tendered in a county other than Orange.
5. Insufficient signature or identification.
6. The amount of the tendered check was for less than \$150.00.

## The Civil Alternative

In addition to recovering the amount owed on a worthless check, Small Claims Court can require the Defendant to pay the victim damages up to three times the amount of the check. You may also recover for other damages the bad check caused you to incur, such as filing fees, collection costs, and attorney's fees. A claim may be pursued in Small Claims Court if the claim is \$5,000 or less. The Small Claims Office is located at 425 North Orange Avenue, Room 350, Orlando, FL 32801. The Clerk's telephone number is (407) 836-2065, or visit them on the World Wide Web at the following address: [www.orangeclerk.onetgov.net](http://www.orangeclerk.onetgov.net)

**NOTE:**In such instances whereby you elect to proceed in a civil action, the Orlando Police Department **WILL NOT** become involved.

## Orlando Police Department Economic Crime Unit



## Filing Your Worthless Check Complaint

Each year, businesses and residents of the City of Orlando receive countless numbers of worthless checks. Many of these victims contact the Orlando Police Department to recover their losses and prosecute the issuer of the check.

This pamphlet offers some hints on how to be a better investigator, how to protect yourself when it comes to worthless checks, and how to initiate a criminal complaint if you receive a worthless check. If you have any questions, please feel free to contact us.

Orlando Police Department  
Economic Crime Unit  
100 South Hughey Avenue  
PO Box 913  
Orlando, FL 32802-0913  
(407) 246-2425

# Filing Your Complaint

1. **Present the check for payment:** It is important to present the check for payment. The state statute requires the bank to stamp or otherwise mark the check with the reason for dishonor.

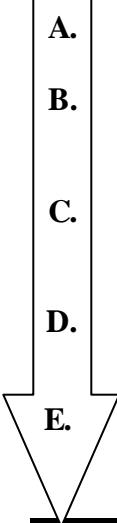
2. **Send a certified letter, return receipt requested, to the person who issued the check.** This is to inform the person of the fact that the check was dishonored. This is required for NSF (non-sufficient funds) checks, but not for checks stamped "Account Closed". We would prefer that you also send a certified letter if you received an "Account Closed" check. The form of the letter should be as follows:

Dear \_\_\_\_\_:

You are hereby notified that a check, numbered \_\_\_\_\_, in the face amount of \$\_\_\_\_\_, issued by you on (date), drawn upon (name of bank), and payable to \_\_\_\_\_, has been dishonored.

Pursuant to Florida law, you have 7 days from receipt of this notice to tender payment of the full amount of such check plus a service charge of \$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, or an amount of up to 5 percent of the face amount of the check, whichever is greater, the total amount due being \$\_\_\_\_\_ and \_\_\_\_\_ cents. Unless this amount is paid in full within the time specified above, the holder of such check may turn over the dishonored check and all other available information relating to this incident to the Orlando Police Department 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, together with the amount of the check, a service charge, court costs, reasonable attorney fees, and incurred bank fees, as provided in Section 68.065."

3. After the seven-day period has elapsed, criminal prosecution may commence.
4. Provide the Economic Crime Unit with the following:

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- A. Original check stamped by the bank.
  - B. A completed and notarized Worthless Check Affidavit (one for each check).
  - C. A copy of the letter sent by certified mail and the return receipt.
  - D. Identification information about the check writer.
  - E. A notarized OPD statement form detailing the transaction.

**YOU MUST PROVIDE THE FIVE ITEMS ABOVE, OR THE ORLANDO POLICE DEPARTMENT CANNOT PURSUE YOUR CASE**

It is the policy of the Orlando Police Department to contact the person who tendered the worthless check. This person will be advised that if they do not make payment in full for the worthless check, they will be prosecuted.

If payment is not made, then the Orlando Police Department will seek a warrant for the arrest of the person who tendered the worthless check. This is provided you have provided us with all the necessary information.

## Florida State Statute Chapter 832

Chapter 832 of the Florida State Statutes addresses worthless checks by requiring the acceptor of a check to acquire eight (8) points of information about the check writer at the time the check is passed (see the back of this pamphlet).

In a worthless check case, the acceptor of the check is the investigator. If the acceptor of the check does not investigate...there will not be a prosecution. The acceptor of the check **MUST** provide the information as to the identity the person who tendered the check to the Orlando Police Department.

Ensure the location you where accepted the check is within the City of Orlando. The jurisdiction where the check was tendered will determine who will investigate your case.

If restitution is offered after the worthless check is turned over to the Orlando Police Department for prosecution:

- A. Accept the full amount of the money due and give a written receipt.
- B. Accepting partial payment does not preclude prosecution.
- C. **DO NOT** agree that prosecution will be dropped.
- D. **DO NOT** agree to return the worthless check.