

**12<sup>TH</sup> JUDICIAL DISTRICT ATTORNEY**  
**WORTHLESS CHECK DIVISION**

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WORTHLESS CHECK INFORMATION PACKET  
for Otero and Lincoln Counties

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**Criteria For Checks Processed Through the Worthless Check Program**

- ★ Check(s) must have been returned from a banking establishment marked *Insufficient funds* and/or *Account Closed* only.
- ★ Check(s) must have been presented to merchant in Otero or Lincoln County in New Mexico.
- ★ The merchant must be able to identify cashier who accepted check.
- ★ Check(s) must have been issued for something of value.
- ★ Proper identification must have been taken. Identification is the key to successful prosecution and recovery in worthless check cases. A proper identification card is best if the check writer is not personally known to you. Please obtain date of birth, social security number and a driver's license number or military id. This information should be noted on the face of the check.
- ★ An actual street address should be taken when there is only a Post Office Box listed. The check writer must be asked if the information on the check is accurate. Note any changes.
- ★ Check should be processed swiftly.
- ★ If the matter should go to court, you will be asked to identify the check writer in court.
- ★ Merchants should review these requirements with employees.

### **Checks Not Accepted Under the Worthless Check Program**

- ★ Checks not meeting the above criteria.
- ★ Stolen or forged checks. If so, report to police agency.
- ★ Two-party checks.
- ★ Post dated checks.
- ★ Checks issued for payment on a real estate contract or lease agreement.
- ★ A partial payment has been accepted towards the check.
- ★ Checks put towards an open or past credit account.
- ★ Checks issued for child support or spousal support.

Even if your check cannot be prosecuted because of one or more of the above reasons, it may be important to alert the District Attorney's Office regarding your experience.

### **Action Required by Merchant/Victim of a Worthless Check**

- ★ If check is marked by the bank "insufficient funds" please redeposit the check. A redeposit is not required for an "account closed" check.
- ★ Attempt contact with the check writer by telephone or in person to give check writer the opportunity to make full restitution. Make accurate notes of any contacts with the check writer including date, time and details of conversation.
- ★ If this should fail, immediately mail a three (3) day certified letter (see enclosed copy) to the check writer.
- ★ If you have not received restitution by the third business day after you received the certified signature card, then you must present all original paperwork including the check (or certified copy from the bank) to the District Attorney's Office. If the envelope returns unclaimed with an explanation from the Post Office, you may then turn all the above to this office. Please make copies for your records.

### **Reporting a Check to the Worthless Check Program**

A Worthless Check case may be brought to the District Attorney's office in person or sent by mail. The following items are required when reporting a Worthless Check:

- ★ The original check or certified copy from the bank.
- ★ The green certified returned receipt card signed, along with copy of letter sent, or the envelope returned to the merchant as unclaimed.
- ★ Merchant/Victim and cashier/person accepting check must fully complete the affidavit. An affidavit has been provided.

After reporting a check to the worthless check program, you may NOT accept restitution from the check writer. Please send the check writer to the District Attorney's Office to pay the required amounts.

**Suggested Procedure for Accepting a Check**

- ★ Name, address and phone number should be imprinted on the face of the check. If the check writer has no phone number, ask for a message phone number, place of employment or any other means of contact.
- ★ Proper picture identification should be taken, preferably a driver's license. The license state and license number should be legibly recorded on the check along with date of birth, social security number if available and any other identifying information. It should be a routine practice for the person accepting the check to compare the photograph and signature on the identification with the person passing the check. Identification taken should be from the person writing or passing the check.
- ★ The person accepting the check should initial or mark the check in some way to identify who accepted it. Being able to identify the person who accepted the check is an essential element for prosecution of a worthless check.

*The passing of worthless checks with the intent to defraud is a crime and will be treated as such. Deterrence is an important element in prosecution and your complete cooperation is required. This office is here to assist you. (575-437-3640)*

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RE: WORTHLESS CHECK(S)**

Please be advised that this letter shall constitute your three (3) business day notice as required under the law. This is to inform you that your check payable to \_\_\_\_\_, in the amount of \$ \_\_\_\_\_, drawn on \_\_\_\_\_, was returned marked \_\_\_\_\_.

Under §30-36-4, of the New Mexico Statutes, you must make restitution in the amount of this check plus a service charge totaling \$ \_\_\_\_\_, or it will be presumed that this check was written by you with criminal intent to defraud.

Please pay the total amount directly to \_\_\_\_\_ in the form of a money order or cashier's check. If restitution is not made within three (3) business days, this matter will be forwarded to the District Attorney's Office.

Your prompt attention in the matter is suggested.

\_\_\_\_\_  
SIGNATURE  
REPRESENTING  
\_\_\_\_\_

AMOUNT OF CHECK \_\_\_\_\_  
SERVICE CHARGE \_\_\_\_\_  
**TOTAL DUE** \_\_\_\_\_

CERTIFIED LETTER  
# \_\_\_\_\_

**WORTHLESS CHECK INFORMATION AND AFFIDAVIT  
OTERO AND LINCOLN COUNTY**

**VICTIM/BUSINESS:**

Name: \_\_\_\_\_ Phone  
number \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**PERSON ACCEPTING CHECK:**

Name: \_\_\_\_\_ Home Phone  
No: \_\_\_\_\_

Home  
Address: \_\_\_\_\_  
—

**CHECK WRITER INFORMATION:**

Name: \_\_\_\_\_ Phone  
Number  
er\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Birth: \_\_\_\_\_ SSN: \_\_\_\_\_ Driver's License #/  
State:-----

Address Furnished by Check  
Writer: \_\_\_\_\_

**CHECK INFORMATION (attach check):**

Type of Good or Services Exchanged for the  
Check: \_\_\_\_\_

Amount of Check: \$ \_\_\_\_\_ Check # \_\_\_\_\_ Date Check Was  
Written: \_\_\_\_\_ Bank Name \_\_\_\_\_ Bank  
Account Number \_\_\_\_\_  
Reason Returned \_\_\_\_\_

Payable to \_\_\_\_\_ Service

Charge \_\_\_\_\_

**AFFIDAVIT:**

That I have personally received said check(s) or that by virtue of my employment I have reviewed the business records maintained by my employer and have the authority to make this affidavit of the holder; that I understand that if charges are filed, a warrant may be issued for the accused. I wish to file a formal complaint with the District Attorney's Office and I hereby agree to indemnity and hold harmless the office of the District Attorney for and liability incurred due to actions resulting from inaccurate or out-of-date information.

Date certified letter sent \_\_\_\_\_

Letter Results \_\_\_\_\_

Person who sent letter \_\_\_\_\_

Has any payment been accepted Yes No

I swear or affirm that the above information is true and correct to the best of my knowledge; that the above check was delivered to be good when accepted and that no payments or partial payments have been accepted.

\_\_\_\_\_  
Signature of victim or business representative

date: \_\_\_\_\_