

**STATE ATTORNEY, SEVENTH JUDICIAL
CIRCUIT**

Volusia, Flagler, Putnam, and St. Johns Counties

R.J. LARIZZA
State Attorney

Dear Citizen,

People who intentionally pass worthless checks with the intent to defraud, violate the criminal laws of Florida. I have developed a Worthless Check Collection and Diversion Division to help you recover the loss you suffered from a bad check. We need your assistance to prosecute the person who gave you a worthless check. This brochure explains what you can do to help us recover the money that is due to you.

Please contact me or the Worthless Check Division of this office anytime that we can be of service to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'R.J. Larizza', written in a cursive style.

R.J. Larizza
State Attorney
7th Judicial Circuit

I. A FEW GENERAL DO'S AND DON'T'S

- A. **DO** make sure that you, or the employee accepting a check on your behalf, can identify the checkwriter.
- B. **DO NOT** take a check bearing a date in the future. For example, a check written on March 17, 2004 should not be dated March 18, 2004.
- C. **DO NOT** agree to hold a check for any length of time. This will be treated as an admission that you knew the check was no good under Florida law and we will be unable to prosecute.
- D. **DO NOT** accept partial payment for a worthless check if you want to keep the option of collecting through criminal proceedings.
- E. **DO** be sure to send the statutory notice discussed in section III of this brochure to a checkwriter whose check is returned marked "NSF" or "Insufficient Funds."

II. IDENTIFYING CHECK WRITERS AND PASSERS

We are unable to accept worthless checks for prosecution when the check taker cannot positively identify the check writer or passer. We are required to prove the guilty party's identity in order to convict, and the check taker is the key witness. The check taker can identify the check writer or passer in one of three ways:

- A. The check taker can testify in court that (s)he personally knows and can positively identify the check writer on sight.
- B. The check taker can testify in court that (s)he wrote on the check the drivers license number or state identification number specifying the state of issuance of the person presenting the check, **OR** full name, home address, home and work phone numbers, and place of employment, as well as comparing the check writer's or passer's driver's license photo and license signature with their appearance and signature on the check and writing down their date of birth, race, sex, and height as shown on the driver's license or ID card. The check taker must also be able to testify that (s)he saw the check writer or passer sign or endorse the check and that (s)he initialed the check as evidence that (s)he did so.
- C. The check taker can testify in court that (s)he wrote the check writer or passer's check cashing card number on the check, so long as the corresponding check cashing card application you maintain on file contains all of the information listed in **section II B**. This list is repeated below for your convenience.

CHECK WRITER/PASSER IDENTIFICATION CHECKLIST:

Full Name: Sex:

Current Home Address: Race:

Home Phone: Height:

Business Phone: Date of Birth:

Place of Employment:

AND/OR

Driver's License Number, including state of issue

THIS INFORMATION MUST BE WRITTEN ON THE CHECK WHEN ACCEPTED OR MAINTAINED IN A CHECK CASHING CARD APPLICATION ON FILE.

III. BENEFITS OF SENDING STATUTORY NOTICE

A. It allows you to collect a service charge according to the following schedule: 1) \$25.00 service charge if the check amount does not exceed \$50.00; 2) \$30.00 service charge if the check amount exceeds \$50.00, but does not exceed \$300.00; 3) \$40.00 service charge if the check amount exceeds \$300.00 or an amount up to 5% of the face amount of the check, whichever is larger.

B. It generates restitution and service charges which should more than offset the cost of sending the statutory notice.

C. It increases the chance of successful prosecution in two ways. Should the case go to trial, failure of the check writer or passer to make full restitution after receipt of the Statutory Notice would assist in creating the presumption of guilt. Also, your file copy of the letter gives us additional physical evidence to help prove the crime.

D. The notice is intended to give you immunity from civil liability under Florida Statute 832.07. Liability insurance coverage to protect you from civil suits for false arrest, malicious prosecution, or slander would cost you far more than the mail fees.

To: _____

STATUTORY NOTICE OF WORTHLESS CHECK

You are hereby notified that check number , in the face amount of \$ _____, issued by you on and drawn upon , has been dishonored. Pursuant to Florida law, you have 15 days from the date of this notice to pay the full amount of the check plus a service charge of \$25.00, if the face amount does not exceed \$50.00; \$30.00, if the face value exceeds \$50.00 but does not exceed \$300.00; \$40.00, if the face value exceeds \$300.00 or an amount of up to 5 percent of the face amount of the check, whichever is greater, the total amount due being \$ _____ Unless this is paid in full within 15 days, I will turn over the dishonored check and all other available information about this matter to the State Attorney for criminal prosecution.

You may also be liable in a civil action for a penalty of three times the amount of the check or a minimum of \$50.00, plus the amount of the check itself, a service charge, court costs, reasonable attorney fees, and bank fees, as provided in Florida Statute 68.065.

Personal checks will not be accepted. Repayment must be made by cashier's check, money order or cash. Make cashier's check or money order payable to:

Mail or deliver to:

If you want this dishonored check returned to you, you must enclose a self-addressed stamped envelope. Otherwise, your check will be destroyed.

By: _____

Signature of Owner, Employee, Agent, etc.

Date _____