

Office of the District Attorney
NINTH CIRCUIT COURT DISTRICT

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DISTRICT ATTORNEY

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**REQUIREMENTS AND PROCEDURES
WORTHLESS CHECK UNIT
DISTRICT ATTORNEY'S OFFICE**

Packet can be downloaded from www.msda9.com/wcu

WORTHLESS CHECK UNIT CHECKLIST

1. The transaction must have taken place in Warren, Sharkey, or Issaquena counties.
2. All checks must be dated after July 1, 1988. We request that you file a complaint with the District Attorney promptly.
3. **The Merchant must get the check writer's name, residence and telephone number. The Merchant must also initial check witnessing the signing of the check.**
4. All worthless checks must be stamped:
 - A. Insufficient Funds; or
 - B. Account Closed
5. Checks will not be accepted if they are stamped:
 - A. Stop Payment;
 - B. Uncollected funds;
 - C. Refer to Maker;
 - D. No such account (usually counter check)
6. The following checks will also not be accepted;
 - A. Checks on which partial payments have been made;
 - B. Postdated checks;
 - C. Two party checks;
 - D. Forgeries (all forgeries should be forwarded to appropriate law enforcement agency).
7. A fifteen (15) working days notice must be mailed by certified mail, **return** receipt requested, to the exact address as given on the check by the maker. The check writer must be given fifteen days from receipt of your letter to make the bad check good.

After the fifteen days are over, you may swear out a bad check affidavit at the D.A.'s Office. The sworn bad check affidavit must be attached to the complaint which is filed with the District Attorney.

8. If the certified letter (notice) is returned undelivered, no waiting period is required and you may file a complaint at that time.
9. **You must bring or mail the following when presenting a complaint to the District Attorney in the following order:**
 - A. **Original check**
 - B. **Completed worthless check complaint**
 - C. **Criminal affidavit**
 - D. **Copy of certified 15 day legal notice letter**
 - E. **Certified mail receipt (Proof of purchase)**
 - F. **Return receipt request card (green card) if signed for. If the certified letter is returned unclaimed, send the unopened letter.**
10. A worthless check complaint must be filed in our Office for each check you wish to submit to the District Attorney.
11. If, after filing a Complaint with the District Attorney, you wish to withdraw the

complaint for good cause, Mississippi Law requires that you pay a fee of Forty (\$40.00) Dollars to the District Attorney for processing such complaint.

The law provides an additional tool for obtaining restitution on bad checks. It is in addition to existing law but does not supplant it. The merchant or individual is still at liberty to pursue conventional criminal prosecution if for any reason it is deemed to be more appropriate in a given case. If you choose to prosecute criminally, go to the appropriate law enforcement agency as you have done in the past.

EXAMPLE

**BAD CHECK
AFFIDAVIT**

EXAMPLE

STATE OF MISSISSIPPI
COUNTY OF WARREN

Personally appeared before me, the undersigned Notary Public, in and for said County and State, MERCHANTS NAME who being by me duly sworn, says that, PERSON WHO SIGNED CHECK late of the County aforesaid, on or about DATE ON CHECK with force and arms, in the County aforesaid, and within the jurisdiction of this Court, did willfully, unlawfully and with fraudulent intent deliver a check, draft or order for the payment of money in the amount of \$ AMOUNT OF CHECK, drawn on NAME OF BANK (bank) for the purpose of obtaining money, goods, or services from MERCHANTS NAME (payee) at a time when he or she knew were not sufficient funds on deposit with said bank for the payment of said check in full plus other checks drawn on said account then outstanding or that said account was closed, in violation of Miss Code Section 97-19-55, contrary to the statute in such cases made and provided, and against the peace and dignity of the state of Mississippi.

AFFIANT

Sworn to and subscribed before me this the _____ day of _____.

NOTARY PUBLIC

My commission expires:

THE FOLLOWING CHECKS CAN
NOT BE ACCEPTED UNDER BAD CHECK PROGRAM

- (1) Post-dated checks - Reason: Supreme Court has ruled this is an extension of credit and not a crime.
- (2) Checks where partial reimbursement or extension of credit has been accepted
Reason: (A) In effect, check holder has now extended credit, (B) Confusion over "restitution" amount. (C) No statutory provisions allowing.
- (3) Two party checks - Reason: (A) No one knows of possible agreements between 1st and 2nd party. (B) 2nd party may not have known check was bad.
- (4) Checks with no I. D., address or positive identification. Reason: No way to identify check writer. Writer may claim forgery as defense.
- (5) Forged checks - Reason: Covered by forgery statute not by bad check law.
- (6) Stopped payment checks involving contract disputes - Reason: Not authorized by statute.
- (7) Checks delivered before July 1, 1988 - Reason: Predates statute.
- (8) Checks over 6 months old - Reason: locating Defendant may be difficult.
- (9) "Hold Checks" - Checks known to be insufficient when received and held to be deposited at a later date reason: This is an extension of credit.

**BAD CHECK
AFFIDAVIT**

STATE OF MISSISSIPPI

COUNTY OF _____

Personally appeared before me, the undersigned Notary Public, in and for said County and State, _____ who being by me duly sworn, says that _____, late of the County aforesaid, on or about _____ with force and arms, in the County aforesaid, and within the jurisdiction of this Court, did willfully, unlawfully and with fraudulent intent deliver a check, draft or order for the payment of money in the amount of \$ _____, drawn on _____ (bank) for the purpose of obtaining money, goods, or services from _____ (payee) at a time when he or she knew were not sufficient funds on deposit with said bank for the payment of said check in full plus other checks drawn on said account then outstanding or that said account was closed, in violation of Miss Code Section 97-19-55, contrary to the statute in such cases made and provided, and against the peace and dignity of the state of Mississippi.

AFFIANT

Sworn to and subscribed before me this the _____ day of _____.

NOTARY PUBLIC

My commission expires:

COMPLAINT

I certify that the information below is true and correct to the best of my knowledge, information and belief. I understand that once this case is turned over for prosecution, I must pay a \$40.00 fee if I personally collect the check. I understand that I have no further connection with the case except to testify in the event the case is brought to trial.

(PLEASE PRINT)

Defendant's Name: _____

Defendant's Address: _____

Driver's Lic. No. _____ Date of Birth _____ Race _____ Sex _____

SSN _____ Telephone No. (Home) _____ (Work) _____

Place of Employment: _____

Identification presented and information obtained: _____

Name of person who accepted check: _____

What was check written for? _____

Check if any of the following pertain to this check:

Hold Check **Post dated check** **Partial payment made** **Two party check**

Additional Information: _____

Check Amount \$ _____ Date Check Presented _____

Reason for return: Non -Sufficient Funds **Account closed**

Bank Name _____ Check Number _____

Name of Payee: _____

Address: _____ Telephone: _____

Signature: _____ Date: _____

Date: _____ D. A. Approval _____

TO: _____ **DATE** _____

15 DAY LEGAL NOTICE LETTER

This Statutory Notice is provided pursuant to Section 97-19-57, Mississippi Code of 1972.

You are hereby notified that a check, draft or order numbered _____ apparently issued by you on _____(date), drawn upon _____(name of bank), and payable to _____(Payee) has been dishonored.

Pursuant to Mississippi law, you have fifteen (15) days from receipt of this notice to tender payment of the full amount of such check, draft or order, plus a service charge of Forty Dollars (\$40.00), the total amount due being \$_____.

Unless this amount is paid in full within the time specified above, the holder may assume that you delivered the instrument with intent to defraud and may turn over the dishonored instrument and all other available information relating to this incident to the proper authorities for criminal prosecution.

MERCHANT: _____

ADDRESS: _____

TELEPHONE: _____

BY: _____