



A packet of information and forms are attached to this letter. This packet is provided to help explain how, and to help you decide whether to refer a bad check case to our office for possible prosecution. Sample forms are included to help you complete the paperwork. Please read everything carefully and fill in the forms completely. If you have any questions, please do not hesitate to call our office at 833-3001.

Please follow these steps when dealing with a possible bad check:

1. Follow the guidelines under "Tips for Check Cashing Procedures."
2. If a check is returned from the bank for insufficient funds, please resubmit it. A closed account check only needs to be submitted once.
3. If the check is still unsatisfied, send notice by registered or restricted certified mail (sample forms are included in this packet).
4. If the certified 10-day notice letter is not accepted by the party who wrote the check, you should contact the Sheriff's Department and have them attempt to make personal service of the 10-day notice.
5. If the check owner responds that the check was stolen or forged, call the police department. A stolen or forged check requires police investigation and should not be submitted to the County Attorney's Office directly.
6. After ten days has expired from the receipt of the 10-day notice (as shown by the postal return receipt or the Sheriff's Return of Service), you should fill out the Checklist for Bad Check Eligibility form included in this packet.
7. If you meet all the criteria in the Checklist, submit the case in one of the following ways:
  - A. If the total face amount(s) of the check(s) is \$750.00 or less, the case should be submitted to the County Attorney's Office.
  - B. If the total face amount(s) of the check(s) is more than \$750.00, the case should be submitted to the police department.
8. We will not accept for prosecution any of the following:
  - A. Checks accepted for rent
  - B. Checks accepted for security deposit
  - C. Checks accepted when no goods or services were exchanged

- D. Checks accepted where there is a Bonafide dispute between the parties regarding the quality of goods or services exchanged
  
- 9. When submitting the case for prosecution to either the police department or the County Attorney's Office, the following must be submitted:
  - A. A copy of the Eligibility Checklist filled out completely.
  - B. A copy of the Bad Check Questionnaire filled out completely for each bad check being submitted.
  - C. The original bad check(s).
  - D. The original postal return receipt or Sheriff's Department Return of Service for the 10-day notice.
  - E. A copy of the 10-day notice.
  
- 10. If you have a film or video tape recording of the transaction, the film or video tape must be surrendered to the police department so it can be preserved as evidence.
  
- 11. If you submit the case for prosecution and it is accepted, you should not accept any payment or partial payment on the check. Once the case is submitted to our office, the check writer should be referred to our office with any questions.
  
- 12. After the check is prosecuted you must notify the County Attorney's Office that restitution has been made. Be sure to give the check writer a receipt.

Please feel free to copy this packet and keep the blank forms so you can report Insufficient Funds (NSF) or Closed Account checks in the future. Each check writer must be handled as a separate complaint. You cannot combine multiple check writers on one complaint. However, you should combine checks written on the same account by the same check writer provided that a Bad Check Questionnaire is filled out for each check.

Please forward completed forms to our offices located at 316 East 5th Street, Waterloo, Iowa 50703. The material will be received and reviewed by our staff.

## **TIPS FOR CHECK CASHING PROCEDURES**

1. The cashier should compare:
  - a. the pre-printed name with the signature; and
  - b. the date with the current date (do not accept post-dated checks); and
  - c. the numeric amount with the handwritten amount
2. The check writer should be asked for either an Iowa Driver's License or an Iowa I.D. card. Both of these are photographic I.D. cards issued by the Iowa Department of Transportation.
3. A comparison should be made between the photograph and the person presenting the check.
4. The following information from the photo I.D. should be written on the front of the check:
  - a. Iowa Driver's License number or Iowa I.D. card number; **AND** date of birth;  
**OR**
  - b. Social Security number; and
  - c. cashier's initials or identifying code number
5. The check writer should be asked for current address and phone number. These should be written on the face of the check if the pre-printed information does not match.
6. It is not required, but helpful to note (particularly for suspicious checks):
  - a. gender
  - b. physical description: height, weight, hair and eye color, distinguishing characteristics
  - c. race
7. Photographic or videotape evidence, if collected, is the best evidence of identity!

Identification is critical, not only for prosecution; information such as address, social security number and date of birth are necessary for issuing an arrest warrant or serving a summons.

**If we cannot identify the person passing the checks beyond a reasonable doubt, we will be unable to prosecute the case.**

## CHECKLIST FOR BAD CHECK ELIGIBILITY

1. The check was written and passed in Black Hawk County
2. The total face amount(s) of the check(s) is \$10.00 or more
3. The check fits in **NONE** of these categories:
  - a. Stop payment check  c. Payroll check\*
  - b. Government check  d. Two-party check
4. The check was presented in person.
5. The check was not pre-dated or post-dated.
6. The check was **NOT** a payment on an installment loan.
7. The payee is **NEITHER** a credit adjustment company **NOR** a collection agency.
8. The check is **NOT** reported by the owner as stolen or forged.
9. There have been no partial payments on the check.
10. The cashier obtained ID from the presenter and wrote on the check the following:
  - a. Iowa Driver's License number **and** Date of Birth; **OR**
  - b. Iowa I.D. number **and** Date of Birth; **OR**
  - c. Social security number of the presenter
11. **Either:**
  - a. The initials of the cashier are on the check; **OR**
  - b. The cashier remembers this transaction specifically.
12. **Either:**
  - a. The cashier can identify the presenter personally; **OR**
  - b. The cashier can testify beyond a reasonable doubt that the person presenting the check was the person shown in the Iowa photo I.D. noted on the check; **OR**
  - c. The transaction is on film and the film establishes the check writer's identity\*\*
13. The cashier is willing and able to testify **AND** the cashier's name, address, and phone number are known and included on the bad check questionnaire.

14.

**Either:**

a. The check presented is a closed account that was presented once;

**OR**

b. The check is an insufficient funds (NSF) check that was presented twice.

15.

A 10-day notice was sent by restricted certified mail or by personal service by the Sheriff's Department.

16.

**ALL** of the following documents are attached:

a. The **ORIGINAL** bad check

b. The **ORIGINAL** postal return receipt or Sheriff's Department return of service.

c. A copy of the 10-day notice>

17.

The Bad Check Questionnaire is completely filled out for each check.

18.

The restitution form is completely filled out.

19.

No collection fees or bad check fees are included on the restitution form.

If you are unable to check all of the boxes (1-19), we will be unable to prosecute the case. If you have any questions, please contact the County Attorney's office at 319-833-3001

- If you have a problem with a payroll check, you should contact the Department of Labor at (515-286-3606)
- If you have any transaction on film or video tape the film or video tape must be surrendered to the Police Department so it can be preserved as evidence in the prosecution.

**BAD CHECK RESTITUTION FORM**

If you have received a bad check, you are entitled to reimbursement for pecuniary damages from the defendant check writer, if he/she is convicted of the crime. This reimbursement is called restitution. Only actual monetary losses for which are NOT covered by insurance can be collected for restitution. Your normal fees for returned or bad checks **CANNOT** be collected as part of restitution.

Victim/Business Name: \_\_\_\_\_

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

Phone Number: \_\_\_\_\_

Name of Check Writer: \_\_\_\_\_

SSN of Check Writer: \_\_\_\_\_

1. Describe and itemize in detail, each loss or damage directly incurred (attach additional pages if needed): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Your insurance company (if any): \_\_\_\_\_

3. Your insurance deductible (if any): \_\_\_\_\_

4. Amounts you have received from your insurance: \_\_\_\_\_

5. Amounts you have received from the check writer: \_\_\_\_\_

6. Other comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PLEASE INCLUDE ANY DOCUMENTATION OR COPIES OF RECEIPTS TO SUPPORT YOUR CLAIM.**

I hereby certify that the above information is true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Authorized Signature

**BAD CHECK QUESTIONNAIRE**

**THIS FORM MUST BE FILLED OUT COMPLETELY FOR EACH BAD CHECK WHICH YOU ARE SUBMITTING FOR PROSECUTION.**

**VICTIM INFORMATION**

Business/Victim Name: \_\_\_\_\_

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

Phone Number(s): \_\_\_\_\_

Name/Address of Person Completing Form: \_\_\_\_\_

Name/Address of Person Who Accepted Check: \_\_\_\_\_

Where Check was Passed: \_\_\_\_\_

Date Check was Passed: \_\_\_\_\_

Witnesses to the Cashing: \_\_\_\_\_

(Name) \_\_\_\_\_ (Address) \_\_\_\_\_ (Phone) \_\_\_\_\_

(Name) \_\_\_\_\_ (Address) \_\_\_\_\_ (Phone) \_\_\_\_\_

Is there a film or video tape of the transaction?  YES  NO

**CHECK INFORMATION**

Check No.: \_\_\_\_\_ Date/Check: \_\_\_\_\_

Amount/Check: \_\_\_\_\_ Account No.: \_\_\_\_\_

Financial Institution: \_\_\_\_\_

What was Check passed/given for? \_\_\_\_\_  
(Specify merchandise, services, cash, etc.)

Value of merchandise, services, cash, etc. given for the check: \_\_\_\_\_

The check was not paid because:

\_\_\_\_\_ Insufficient funds  
\_\_\_\_\_ Account Closed (Date closed: \_\_\_\_\_ )  
\_\_\_\_\_ No Account

If the check was written on a closed account:

Who closed the account: \_\_\_\_\_

Date Account was Closed: \_\_\_\_\_

Date(s) the check was presented to the bank for payment:

(1) \_\_\_\_\_ (2) \_\_\_\_\_ (3) \_\_\_\_\_

Ten-day notice: \_\_\_\_\_ Accepted \_\_\_\_\_ Refused \_\_\_\_\_ Unclaimed \_\_\_\_\_ Sheriff Service \_\_\_\_\_

Date the ten-day notice was delivered if accepted: \_\_\_\_\_

List other contacts with the check writer: (Specify date of contact, who made the contact, nature of contact, and what was discussed. Attach additional pages if necessary)

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

### **DEFENDANT INFORMATION**

Defendant's Name: \_\_\_\_\_

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

Phone Number(s): \_\_\_\_\_

Date of Birth: \_\_\_\_\_

SSN: \_\_\_\_\_

License/I.D. No.: \_\_\_\_\_

Was photo I.D. Shown:  YES  NO

What kind of Identification? \_\_\_\_\_

Did information on the I.D. match the information printed on check?  YES  NO

Did photo I.D. match the physical appearance of the check writer?  YES  NO

Are you sure of the identity of the person who passed the check?  YES  NO

Does the cashier know the check writer?  YES  NO

Have you attached:  Original check  Demand letter  Receipt return

### **CERTIFICATE AND SIGNATURE**

I hereby certify that the above information is true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature

## SAMPLE TEN DAY NOTICE

Name and address of check writer here: John A. Doe  
1234 Any Drive  
Anywhere, IA

Your check # 1234 in the amount of \$ 56.78 and dated 09/10/2019  
Your check # 5678 in the amount of \$ 9.10 and dated 09/12/2019  
Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_

Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_  
written by you on an account with ABC Banking Institute, Hometown, IA was returned to  
us unpaid due to insufficient funds or closed account (one).

This is a notice pursuant to '714.1(6) of the Iowa Criminal Code that you have ten (10) day from  
your receipt of this letter to pay the amount of these checks or legal action may be taken.

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

### THE LAW CODE OF IOWA - '714.1(6)

A person commits theft when the person...

Makes, utters, draws, delivers, or gives any check, share draft, or written order on any bank, credit union, person, or corporation, and obtains property or service in exchange therefor, if the person knows that such check, share draft, draft or written order will not be paid when presented.

*Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.*

Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

**NOTE: Use this form if you have received more than one bad check from the same account and from the same check writer.**

**TEN DAY NOTICE –**  
**Multiple checks same account and writer**

Name and address of check writer here:

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Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_  
Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_  
Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_  
Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_

written by you on an account with \_\_\_\_\_  
was returned to us unpaid due to \_\_\_\_\_

This is a notice pursuant to '714.1(6) of the Iowa Criminal Code that you have ten (10) days from your receipt of this letter to pay the amount of these checks or legal action may be taken.

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(Signature)

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**NOTE: Use this form if you have received more than one bad check from the same account and from the same check writer.**

**TEN DAY NOTICE –**  
**Single check**

Name and address of check writer here:

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Your check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and dated \_\_\_\_\_  
written by you on an account with \_\_\_\_\_  
was returned to us unpaid due to \_\_\_\_\_

This is a notice pursuant to '714.1(6) of the Iowa Criminal Code that you have ten (10) days from your receipt of this letter to pay the amount of these checks or legal action may be taken.

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(Signature)

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**NOTE:** Use this form if there is one bad check.