



# LA PAZ COUNTY

## Bad Check Program Handbook

## **A MESSAGE TO THE PEOPLE OF LA PAZ COUNTY**

The writing of bad checks is still a significant problem in our County. Citizens and merchants in the County lose thousands of dollars every year as a result of bad checks. The rest of us suffer as well, because businesses are forced to raise their prices in order to offset losses from bad checks. Nationwide statistics show that bad checks, a form of retail theft, are one of the major contributors to retail bankruptcies. Writing bad checks is against the law, especially in cases in which the writer of the check does not reimburse the merchant for the check immediately. The La Paz County Attorney's Office Bad Check Program is dedicated to protecting merchants, businesses and individuals from those who commit theft by bad check writing.

The purpose of this Bad Check Handbook is to explain the procedures currently being used in this County to reduce bad check writing and enforce Arizona's Bad Check Law that went into effect on August 4, 1984. This program is dedicated to insuring that victims of bad checks are made whole again. The purpose of the Bad Check Program is to provide a comprehensive program which will reduce or eliminate bad check writing. This program includes procedures to warn offenders, prosecute people who do not respond to the warnings, and collect and remit restitution to merchants and other victims of bad checks. As with many areas of crime, there is also much you can do to protect yourself. The program will address that by providing tips and guidelines to help prevent the crime before it is committed.

It is my hope that by working together to solve this serious problem, we can make a significant dent in the epidemic of bad check writing. The more we work together and cooperate, the more successful we will be. I urge you to become heavily involved in our efforts to help eliminate the bad check problem in La Paz County.

Thank you for your help and support.

~ ~ ~ ~ ~  
Tony Rogers  
La Paz County Attorney

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## **INTRODUCTION**

Each day thousands of checks are written to pay for goods and services. Hundreds of checks are not honored when presented to the bank. Hard working merchants and others go unpaid, thus becoming the victims of bad check crimes.

Arizona has become one of the worst states in the United States for ID and commercial theft. This is not something we are proud of. State Law is the primary enforcement tool for businesses and individual victims. Criminal provisions are designed to protect the innocent bad check victims and these laws mandate recovery of restitution against bad check writers.

The law makes "Issuing a Bad Check" a Class 1 Misdemeanor, with repeated violations and high dollar amounts resulting in Felony prosecution. When a check is returned unpaid, you (the victim/merchant) need to notify the bad check writer, in writing, that the check was returned for non-payment. **THIS IS ACCORDING TO ARIZONA LAW.** The check writer must reimburse you for the total amount of the check within time limits established by law. Thereafter, the check writer may be subject to criminal prosecution by the La Paz County Attorney's Office.

The La Paz County Attorney's Office established the Bad Check Program to assist victims/merchants. The primary responsibility of the program is to recover restitution monies for you. Most "first time" bad check writers will be provided an opportunity to avoid prosecution by payment of full restitution and statutory fees which is referred to as the "diversion" process. If the check writer does not make full restitution, and if sufficient evidence for criminal charges is available, criminal prosecution will be initiated.

This Handbook provides valuable information on reducing and eliminating losses due to bad checks. The La Paz County Attorney's Office recommends specific procedures for victims/merchants who accept checks to follow. This will hopefully minimize exposure to bad checks and provide evidence against the check writer. This guidebook provides directions for processing bad checks and supporting the prosecution of bad check writers. Please read this guidebook carefully and follow the instructions.

In addition to this handbook, the Bad Check Program Coordinator is available to provide free training to victims/merchants on check acceptance procedures and forgery detection. Training of your employees should assist in reducing the high costs of bad check writers. With properly trained employees, you have taken the first step in fighting bad check writers. However, the training only works when the managers/owners support the Bad Check Program process.

The La Paz County Attorney's Office Bad Check Program is mandated to work with victims/merchants in identifying bad check crimes and quickly enforcing full restitution for victims of these crimes. Together, significant reductions in bad checks can be achieved.

## **Welcome to the Bad Check Program**

This is our Bad Check Handbook for your use in submitting checks to our program. We hope that you will take the time to review the handbook and adhere to our policies and procedures. This will speed the process of collecting on your bad checks.

Beginning January 1, 2009, we will also attempt collection of a \$25.00 victim fee per each check writer, in addition to this service being provided to you at no charge.

**DO NOT ACCEPT ANY PAYMENTS FROM THE CHECK WRITER AFTER YOU HAVE SUBMITTED IT TO THE PROGRAM.**

**Refer the check writer to the County Attorney to pay. This is the only way the program will work. If you do accept restitution from anyone other than the County Attorney, you are undermining the deterrent effect of the Bad Check Program. The Bad Check Program will not process any future bad checks for your business if you take payment after submission to the program. You may also be liable for a collection fee due to the Bad Check Program.**

Once the check is received in the program, we send an "official" Notice of Dishonored Check to the check writer. Under Arizona law, time limits have to pass before charges will be filed. Charges are filed only IF there is no other way to obtain the money for you on the check. If there is no response when the charges are filed, a warrant will be issued by the Court.

Finally, we ask that you please be patient with our program. When the County Attorney receives payment on your bad check, the payment is then sent to you within 10 business days. Please feel free to contact us if you have any questions.

**SEE DEMAND FOR PAYMENT NOTICES IN APPENDIX**

**SEE SUBMISSION FORM IN APPENDIX**

## HOW TO SUBMIT CHECKS TO THE BAD CHECK PROGRAM

1. According to Arizona law, **YOU** must send a **certified letter** to the check writer as soon as the check is returned from your bank. You may use the form in the appendix titled: "Notice of Dishonored Check", or write your own using ours as a guide. By law, you must allow 12 days, plus 5 days for mailing, for the check writer to respond to your letter (17 days total). If it is returned by the post office as unclaimed/undeliverable within those 17 days, you do not have to wait the full 17 days and may proceed with submitting the check to the program.
2. There are two different Demand for Payment letters attached here. Form A is for checks \$4,999.99 or less (Misdemeanor offense) and Form B is for checks \$5,000.00 or more (Felony offense)
3. **COPY the SUBMISSION FORM** provided in the appendix of this handbook, and complete the information in specific detail. The more information you give us the better the opportunity we have in collecting the funds for your bad check.
4. If the check was for \$4,999.99 or less, wait 17 days before submitting the check to the Bad Check Program.
5. If the check was for \$5,000.00 or more, you must wait 60 calendar days before submitting the check to the Bad Check Program.
6. Complete the Submission Form (Form C) now, while the information is fresh in your memory. It will be sent along with other information when the check is submitted to the program.
7. **STAPLE the ORIGINAL check** to the form, enclose a **copy** of the Certified Letter you sent, the green "Certified" card from the demand notice, submission form and mail or hand deliver them all to our office:

Bad Check Program  
La Paz County Attorney's Office  
1320 Kofa Ave.  
Parker, Arizona 85344

## CHECKS NOT HANDLED BY THE BAD CHECK PROGRAM

The following checks *cannot* be handled by the bad check program. Most must be pursued civilly in small claims court or by a collection agency. You are advised to seek private legal counsel for advice on these procedures. *However, please call the bad check program about your bad check. The circumstances involving your check may qualify it for the program regardless of what is mentioned below.*

- **Checks not written or passed within La Paz County.**
- **Online bill-pay checks.** Since these checks are not witnessed by anyone when they are issued, we cannot prosecute. Besides not identifying the person issuing the check, we do not have any signature authorizing the check being issued.
- **Stale dated checks.** A check must be presented to a financial institution for payment within 30 days of the date written on the face of the check.
- **Checks that are altered or suspected of being forgeries, counterfeit and checks stamped “Lost or Stolen” or “Counterfeit”,** *should be immediately directed to local law enforcement*, as these are probably the subject of a more serious crime like fraud, stolen or theft of checks or forgery.
- **Rent checks.** Rent checks are not a criminal matter. Landlords are protected under the Residential Landlord and Tenant Act laws. The amount of the bad check plus any other amounts owed to you are recoverable in this civil procedure. Please refer to Landlord/Tenant Act Handbook available at your local Justice Court. You should seek private legal advice from an attorney.
- **Checks that are electronically processed by a third party company (i.e.: Telechek, Certigy, ChexSystems, Checkwrite, Crosscheck, SCAN, are a few of the companies).** These companies should reimburse you for your loss, as that’s why you are paying for their service. If you are using any of these companies, and hand the actual paper check back to the check writer at the time of the sale, you are giving away our prosecution evidence. If you keep the original check in your possession, you can then forward it to the Bad Check Program once it’s returned from your bank.
- **Checks issued by an electronic or online internet service where the issuer was not present** when the check was passed or when the check was not signed by the issuer. A witness is required to have seen who actually signed the check.

- **Checks that have been cashed at your business (two party checks), but are not made payable to your business, such as payroll checks issued to the person attempting to cash the check. This check is not payable to you, therefore, you should not be cashing the check. You are not a bank and you should never "cash" any checks for anyone. These cashed checks cannot be prosecuted by the Bad Check Program.**
- **Post dated checks** either from the date of acceptance, receipt or date of the check, as this is a civil agreement between you and the check issuer, because you know in advance the check writer does not have any money in his account. You take a risk in accepting these checks and for your own safety, you should not accept a post dated check. This becomes a civil matter because you were put on notice that the check writer had no funds in the bank when you accepted the check.
- **Stop payment checks** whether there were sufficient funds on deposit to pay said checks or not, if payment was stopped after issuance we cannot prosecute.
- **Checks which the payee or holder knew that the check writer did not have funds to pay the check at the time the check was issued.**
- **Checks issued in matters which constitute civil disputes (rent checks, checks for rental storage units, contract agreements, verbal agreements, personal loans, promissory notes, etc.).**
- **Checks redeemed by a guarantor or assigned by a payee to a guarantor.**
- **Checks as to which the payee or holder has been expressly notified, before the drawing of the check, or has reason to believe that the check drawer did not have on deposit as to his credit with the drawee, sufficient funds to ensure payment on its presentation (IRS freezes, hold by insurance companies or hold by the bank). This is a statutory defense.**
- **Checks as to which the insufficiency of funds results from an adjustment to the person's account by the credit institution without notice to the person from the banking institution.**



## **WHEN YOU RECEIVE A CHECK**

To help safeguard against taking a bad check, and as a prerequisite to the service of the Bad Check Program, be certain to do the following:

### ***ALWAYS DEMAND PROPER IDENTIFICATION***

#### **(SOCIAL SECURITY CARDS ARE NOT PROPER IDENTIFICATION)**

**The best identification is an Arizona driver's license. Military Identification, if it has the date of birth and identification number, along with a picture, is also sufficient.**

BE SUSPICIOUS of checks that have a low check number or no printed check number. Nearly 90% of bad checks are drawn on accounts less than one year old. If the check number is below 150, or handwritten, be careful.

Checks **MUST** be dated the same day you receive them. Post dated checks can not be prosecuted.

COMPARE THE NAME AND ADDRESS on the license to those on the check.

RECORD the driver's license number on the **FRONT** of the check. Also put home address and phone number if available, unless they are pre-printed on the check.

COMPARE THE SIGNATURE AND PHOTO on the driver's license to that on the check. **DO NOT** accept checks that are pre-signed. Make sure every check is signed in your presence.

MAKE SURE the signature is legible. If it is not, have the check writer print their name on the check. Compare the printed name with identification and the name pre-printed on the check.

MAKE SURE the driver's license has not expired. Do not let the check writer put the driver's license on the check. Ask for I.D. and write the information yourself.

WRITE DATE OF BIRTH of the check writer on the check.

WRITE YOUR NAME or initials as receiver of the check.

Look to see if there are any signs that any part of the check has been altered or removed.

**A witness is required to successfully prosecute a criminal case.** The witness must be the person who accepted the check. Be certain the clerk's identity can be determined from the face of the check.

**Record all the above information on the FRONT of the check**

*(During the check clearing process, many banks place inked stamps on the back of the check which could cover up your identification entries, as well as any dates on which the check was entered for deposit.)*


## ACCEPTING A CHECK

### WHAT DO YOU LOOK FOR WHEN TAKING A CHECK?

Follow this simple checklist to reduce the possibility of accepting a bad check. Early detection eliminates many hardships associated with accepting a bad check. The preventive steps listed below should be used by you and your employees. These steps will reduce losses and increase the chances of full recovery.

- ✓ DOES IT HAVE A LOW CHECK NUMBER OR NO PRINTED CHECK NUMBER? About 90% of bad checks are drawn on accounts less than one year old. If check numbers are handwritten, or are lower than 125, or start with 1000 or 1100, exercise caution.
- ✓ IS THE DATE OF THE CHECK ACCURATE? This eliminates the possibility of receiving postdated checks (those dated in the future). If a check was post dated, it cannot be prosecuted.
- ✓ VERIFY THAT IT IS NOT FORGED OR COUNTERFEIT. Arizona banks have Federal Reserved District numbers of "11" or "12", so check the first two digits of the nine-digit number at the lower left corner of the check, besides checking the denominator of the fraction at the upper right. If the check names an Arizona bank, but the two-digit number is not "11" or "12" you may have a forged or counterfeit check.

JOHN R. GOODGUY 1234 Maine Street Anytown, HI 99999	05744/1221	118
	_____20_____	
Pay to the Order _____		\$ _____
Center State Bank 912 Pine Street Anytown, HI 99999		
Memo _____		
122105744	7878787878	0118

- ✓ Special magnetic ink is used for automated check sorters. It has a dull finish. Check the numbers on the lower right of the . If they shine or reflect light, it may be a forgery.
- ✓ Look at the account number written in the center bottom of the check. Most account numbers do not have spaces. If there is a space between the numbers, this account number may have been altered.

✓ More checks are now being made on home personal computers. If you received a check that looks "home-made", **exercise EXTREME caution and obtain EXTRA identification from the check writer.** Ask questions about address, phone number and driver's license information. Don't hesitate to call the bank for verification before you accept the check.

✓ You will usually feel perforations on at least one edge of all legitimate personal checks. Most forgers use a regular paper cutter, leaving all four sides smooth.

✓ Look at the obvious! Do the amounts match on the amount written in numbers to the amount written out in words?

✓ Are the amounts altered? Check the numerals AND the words to see if they appear to be consistent with the other writing. If there is crowding, and if there is any contrast in ink color or density or if the words look like they have been erased. Any inconsistencies may suggest an alteration. Make certain that all parts of the check are easily read.

✓ Has the name of the payee been changed or crossed out and your name written in? If the color density or writing of the name appears different, there may have been an alteration. If a check appears to be made payable to two or more payees and the second name appears in different color, density or writing from the first, there may have been an alteration.

✓ If the check is made payable to someone else and not to you, **DO NOT CASH IT.** You can not get identification of the actual person who wrote the check if they are not the ones presenting the check issued to you.

✓ If the check is made payable to someone else and not to you, **DO NOT CASH IT.** You can not get identification of the actual person who wrote the check if they are not the ones presenting the check issued to you.

**A witness is required to successfully prosecute a criminal case.** The witness must be the person who accepted the check. Be certain the clerk's identity can be determined from the face of the check.

**Record all the above information on the FRONT of the check**

*(During the check clearing process, many banks place inked stamps on the back of the check which could cover up your identification entries, as well as any dates on which the check was entered for deposit.)*

If you are still in doubt, use common sense, and do not accept the check. Arizona law does not require anyone to accept checks. You may lose the sale, but you won't lose your merchandise.

## HELPFUL INFORMATION AND SUGGESTIONS

If your employees are accepting checks, help them out by posting your check cashing policies and review your policy with them. For example, if you require an Arizona Driver's License and one other identification, by posting that fact, you enable the employee to simply point out that policy and say, "I am sorry, but I am not permitted to accept your check without the listed identification". This depersonalizes the transaction between the customer and employee so that the employee cannot be intimidated into accepting the check.

Share your knowledge about bad checks with your employees and co-workers. Talk about the problems and solutions on a regular basis and review your policies so they all know what to do when accepting a check.

Some small companies and businesses maintain and share a "bad check list" which names those individuals who have written bad checks. While our bad check program will assist you in recouping your losses, it is still an inconvenience to get involved in the collection process. You are the best protection against bad checks.

Don't accept checks for more than the amount of purchase (or give cash back) or made payable to someone else (mostly payroll checks). **You are a business, not a bank** If you feel that good customer relations would warrant cashing these checks anyway, keep a list of your good customers and provide this service for them only, with proper identification obtained. The Bad Check Program cannot collect these checks for you.

It is not a good idea to accept checks from persons who are obviously under the influence of drugs or alcohol without requiring solid identification. These checks could be cashed with no purchase from your store, which is not good business for you.<sup>4</sup>

Do not accept checks that may be issued by a third party who asked you to cash the check for them. For example, if John Smith issued a check to Mary Jones, and Mary Jones asks you, the cashier/merchant, to cash John's check for her, **DO NOT CASH IT**. The reasons are twofold. (1) Because you need to obtain identification of John Smith who actually issued the check, not Mary Jones, to whom you are giving the money and (2) you did not actually witness John signing the check. This is not a good practice on behalf of your business to cash these checks. Exercise extreme caution and see the signs of a possible situation before accepting the check.

NOTICE OF DISHONORED CHECK  
**DEMAND FOR PAYMENT**

Form A: use for check(s) \$4999.99 or less; a Class 1 Misdemeanor

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

**Pursuant to ARS 13-1807, the check or instrument shown or described below, issued by you has been dishonored:**

Instrument/check No: \_\_\_\_\_ Instrument /check date: \_\_\_\_\_

Originating Institution, Bank or other Drawer: \_\_\_\_\_

Amount payable to: \_\_\_\_\_

Reason for dishonor (marked on instrument) \_\_\_\_\_

**Pursuant to ARS 13-1808, you have 12 calendar days from the date of this notice to pay or tender to the holder named below the full amount of the check or instrument, together with all reasonable costs, and statutory fees. Payment must be in the form of a money order, cashier's check or cash. You are hereby notified that unless this amount is paid in full within the time specified, the holder of the dishonored check or instrument may turn it and all other available information relating to this incident over to the La Paz County Attorney's Office for criminal prosecution.**

Check Amount \$ \_\_\_\_\_

Fee Amount \$ \_\_\_\_\_

**Total Owed \$** \_\_\_\_\_

Victim's signature: \_\_\_\_\_ Telephone #: ( ) \_\_\_\_\_

Business Name: \_\_\_\_\_

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

NOTICE OF DISHONORED CHECK  
**DEMAND FOR PAYMENT**

**Form B: use for check(s) \$5000.00 or more; a Class 6 Felony**

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

**Pursuant to ARS 13-1807, the check or instrument shown or described below, issued by you has been dishonored:**

Instrument/Check No: \_\_\_\_\_ Instrument /Check Date: \_\_\_\_\_

Originating Institution, Bank or other Drawee: \_\_\_\_\_

Amount payable to: \_\_\_\_\_

Reason for dishonor (marked on instrument): \_\_\_\_\_

**Pursuant to ARS 13-1807(E), you have 60 calendar days from the date of this notice to pay or tender to the holder named below the full amount of the check or instrument, together with all reasonable costs, statutory fees and including accrued interest at the rate of 12% per year .**

**Payment must be in the form of a money order, cashier's check or cash. Pursuant to ARS 13-1808, you are hereby notified that unless this amount is paid in full within the time specified, the holder of the dishonored check or instrument may turn it and all other available information relating to this incident over to the La Paz County Attorney's Office for criminal prosecution.**

Check Amount \$ \_\_\_\_\_

Fee Amount \$ \_\_\_\_\_

Accrued Interest \$ \_\_\_\_\_ at 12% per year

**Total Owed \$ \_\_\_\_\_**

Victim's signature: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Business Name: \_\_\_\_\_

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

**SUBMISSION FORM**

**La Paz County Attorney Bad Check Program**  
1320 Kofa Ave., Parker, AZ 85344  
ph. 928-669-6118 fax 928-669-2019

**Victim information (this is you)** Date \_\_\_\_\_

Business or person's name: \_\_\_\_\_

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

City/state/zip: \_\_\_\_\_

Name of contact in your business: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Check writer information (person who signed the check)**

Name/business: \_\_\_\_\_

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

City/state/zip: \_\_\_\_\_

Phone numbers: \_\_\_\_\_

Driver's license: \_\_\_\_\_ State \_\_\_\_\_

Date of birth: \_\_\_\_\_ Social Security no: \_\_\_\_\_

Address where check was actually accepted: \_\_\_\_\_

Was this check postdated, stopped payment or were you asked to hold this check to deposit at a later date? \_\_\_\_\_ (If so, we can not prosecute this check)

Any unusual circumstances surrounding the issuance of this check? Attach additional page if necessary or describe on reverse side of this form.

**Attach check to this form**