



CITY OF ELMHURST

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POLICE DEPARTMENT
"Providing the Best"

ELMHURST POLICE DEPARTMENT

PROCEDURE FOR HANDLING WORTHLESS DOCUMENTS AND BAD CHECKS

FORGED DOCUMENT or CHECK:

1. Call the police immediately. Record all information concerning who accepted the document, what identification was used, and any known offender description or information.
2. Preserve any inside or outside video that records the transaction, suspect, or vehicle.
3. The documents are evidence and should not be handled or handled as little as possible.

ACCOUNT CLOSED CHECK:

1. Follow the same procedure as stated above.
2. If you have filed a police report and desire to pursue a criminal complaint, do not accept any form of payment or restitution. This is usually a matter resolved by post arrest court disposition, although restitution is never guaranteed. By accepting payment or restitution, you will be referred to the Civil Court process and the criminal investigation will immediately be closed. The Police Department will not use the threat of criminal prosecution as leverage to force payment or restitution.
3. If the account holder contacts you please refer them to the investigating Officer or Detective. Then notify the Officer or Detective that you were contacted by the offender.

CHECK RETURNED FOR NON-SUFFICIENT FUNDS:

Initiate action through the *DuPage County State's Attorney's Bad Check Division Program*. This program focuses on restitution and then prosecution if necessary. Please refer to the attached pages for more information on this program. Before participating you will need to do the following:

1. Send the account holder or the person who tendered the check a letter via CERTIFIED MAIL, RETURN RECEIPT REQUESTED covering the following points (see attached sample).
 - That the check was returned not paid.
 - That you or your business is demanding payment within 10 days.
 - That prosecution will commence if payment is not made.
2. Wait 10 days from the date the Certified Letter was delivered as shown on the return receipt, and then present the check for payment a second time.

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OTHER WAYS TO PROCEED:

Criminal Complaint:

This usually begins with the filing of a police report that is filed with the police department where the transaction actually took place. If there is a determination a criminal act occurred, you will be given the option to file a criminal complaint. Proceedings through the police department or States Attorney's office are criminal and the police department will not act in the capacity of a collection agency. Although restitution can be part of the final criminal court proceedings, the criminal complaint process does not guarantee that the Judge will order restitution. Criminal complaints are prosecuted based on the principal that you have been aggrieved and are seeking the offender's punishment through a criminal court of law. **Note:** This course of action is also available if restitution is not made during participation in the DuPage County States Attorney's Bad Check Diversion Program. For more information call 1-800-704-5738 or visit www.hotchecks.net/dupage.

Civil Process:

This is a law suit that begins with the filing of a Small Claims action through the Circuit Clerk of DuPage County. Small Claim actions are for cases involving claims of \$10,000 or less. You may present the case yourself and do not need to be represented by an attorney. The court rules are relaxed and you may present your case without knowing all of the legal rules or phrases. If the judge rules in your favor restitution will be ordered, however, no criminal punishment or record will result. For more information please visit the following web sites:

www.dupageco.org/emplibrary/Small_Claims_Booklet_Sept2007.pdf

www.dcba.org/public/claims.

IMPORTANT POINTS:

- Handle checks or other fraudulent documents as little as possible to preserve any possible evidence.
- Preserve any available video recordings available.
- Do not write on the check or other document as handwriting comparisons may be done.
- Do not send the person involved their check back. If they demand proof, send them a copy.
- Keep a copy of the demand letter you send to the person involved and the original return receipt from the Certified Letter.

If you have any further questions or concerns about which option to follow please contact the Investigations Division for assistance at 630-530-3079. Or visit our website www.Elmhurst.org and enter worthless document in the search field.

Steven Neubauer

Steven Neubauer
Chief of Police

For more information call 1-800-704-5738 or visit www.hotchecks.net/dupage

DuPage County States Attorney's Bad Check Diversion Program

Program Overview

When a person receives a bad check, they are required by Illinois statutes to notify the check writer. If the check writer resolves the check at this point, it is no longer an issue. However, if the check writer refuses to make restitution, the check can be turned over to this Bad Check Diversion Program. The check writer now has two choices: comply with the requirements of the Program or face possible prosecution.

Because this is a Diversion Program, there is a strong incentive for check writers to comply. They pay full restitution and the required fees or face possible prosecution. For the victim the process is easy; victims submit the original check attached to a completed Check Complaint Form. Multiple checks (from the same check writer) may be attached to the same form.

From that point on, the Program works directly with the check writer to obtain restitution. Besides paying the full amount of the check, the check writer is required to pay a service fee to the victim as well as to pay the administrative cost of the Program. Finally, they are required to complete the Check Writer's Educational Course.

If the check writer does not comply with the requirements of the Program, the case will be referred for possible prosecution. If your check is not prosecutable, you may then wish to consider turning the check over to a private collection agency or seeking recovery through other civil remedies.

Restitution: The primary goal of the Bad Check Diversion Program is to recover money lost to bad check crime. It is very important that the bad checks referred to the Program meet basic requirements. The Program Guidelines, a publication that is part of the Bad Check Protection Kit, will explain those requirements in detail.

Once a check is accepted into the Program, we contact the check writer by letter and phone. The check writer is required to complete the requirements of the Program that include: Paying full restitution of the bad check(s); Pay a victim fee to help cover the costs that the victim has incurred; Pay a Program administrative fee; Complete a Check Writer's Educational Course.

If all the requirements are met, the writer avoids potential prosecution. If the check writer does not comply with the Program requirements, he or she faces potential prosecution that could result in a criminal conviction.

Returning Recovered Funds: Within seven days of receiving restitution from the check writer, the Program will issue a check to the victim that includes the recovered check amount plus a service fee. The Program returns 100% of the amount recovered on behalf of the victim. Again, **it costs nothing to participate** in the Program. Bad check writers pay the entire cost of the Program.

Prosecution: The Bad Check Diversion Program is designed to allow bad check writers an opportunity to resolve their bad check crime and avoid a possible criminal prosecution. The Program provides a win/win situation for everyone involved, including the person who wrote the bad check. If a bad check writer elects to ignore this opportunity; they face possible prosecution and possible fines, court costs, and even jail time.

For more information call 1-800-704-5738 or visit www.hotchecks.net/dupage

Bad Check Protection Kit: By registering with the Bad Check Diversion Program you will also receive a FREE Bad Check Protection Kit. This packet contains everything you need to help avoid bad checks in the first place as well as instructions on how to submit a bad check to the Program. The Merchant's Bad Check Protection Kit contains: Guidelines for Handling Checks, Program Registration, Bad Check Complaint Form, Cash Register Sign and other items designed to help you with every aspect of handling checks.

Before You Refer A Check To This Program: Prior to referring a check to the Program, victims are required to notify the check writer that a check has been dishonored and demand immediate payment of the check plus the bank charges incurred as a result of the bad check. This must be done by certified mail or affidavit of service. If, after 10 days, the matter has not been satisfied, you may refer the check to our office. See the attached sample demand letter.

Frequently Asked Questions:

What do I pay for the State's Attorney's Office to enforce payment of my check?

Nothing! This service is free to merchants and other victims of bad checks. The Bad Check Diversion Program requires the check writer to pay the victim the full amount of the check plus a victim's service fee. The check writer also pays the administrative costs of the Program.

How do I register for the Program?

You can register on-line or by calling the Bad Check Diversion Program at 1-800-704-5738 or by Internet submission at www.hotchecks.net/dupage. You will receive your Merchant's Number via U.S. Mail. As soon as you are registered, you can begin to submit bad checks you have received.

Why can't I submit any check that was refused by the bank?

Certain checks are not eligible for the Bad Check Diversion Program. Some of these are considered civil matters. Some checks are considered more serious criminal matters and the check writer is not eligible for a diversion program and must face prosecution. Some bad checks are impossible to prosecute because proper identification was not taken at the time of the transaction. Some checks do not qualify as valid payment instruments because of no signature or no amount entered. **NOTE:** If you are unsure whether a check qualifies for the Bad Check Diversion Program, submit it anyway. If the check does not qualify, it will be returned with an explanation of why it did not qualify.

What can I do to make sure a check qualifies for Program?

The Program Guidelines that are provided on the web-site outline the steps that a person should take to ensure that a check is handled properly at the time of the transaction. If any of these steps are overlooked, the check may not qualify for the Bad Check Diversion Program.

Please download a copy of the Program Guidelines and share it with all management and personnel who handle bad checks. Go over your store policy for handling bad checks - in detail. If you need help developing a solid set of check handling policies, please contact the Bad Check Diversion Program.

Can I get a service fee for the bad check from the Program?

Yes. The Bad Check Diversion Program can require the check writer to pay the full amount of the check plus a victim's service fee to help cover the costs that a victim incurs in handling the bad check. This is a requirement of the Program that check writers must comply with to satisfy their responsibility. If they fail to reimburse the victim's service fee – even if they pay the full amount of the check – they may still be subject to prosecution.

For more information call 1-800-704-5738 or visit www.hotchecks.net/dupage