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Worthless Check Policy

Theft is an offense against the State of Texas. For first-time offenders, theft by check is a Class B misdemeanor if the value of the property stolen is \$100 or more but less than \$750. For those who have been previously convicted of theft, theft by check is a Class B misdemeanor even if the property stolen is worth less than \$100. The maximum punishment for a Class B misdemeanor is a fine of up to \$2,000 and/or a jail term of up to 180 days.

Theft by check is a Class A misdemeanor if the value of the property stolen is \$750 or more but less than \$2,500. The maximum punishment for a Class A misdemeanor is a fine of up to \$4,000 and/or a jail term of up to one year.

The County Attorney's Worthless Check Department assists local merchants and citizens victimized by Class A or B misdemeanor theft by check. For assistance with worthless checks of \$2,500 or more, merchants should contact the District Attorney's felony intake division at (936) 539-7800.

Collections Assistance Criteria

Our office assists local merchants and citizens in collecting amounts stolen through worthless checks if all of the following criteria are satisfied:

- The check was received in Montgomery County, Texas;
- The check amount is at least \$100 and less than \$2,500;
- For business or company checks, the check writer's name is printed on the check;
- The check was received in person in exchange for property (or in exchange for services, if the check was received at the same time the services are rendered);
- The check was processed through a bank within 30 days of receipt and was returned "insufficient funds" or "account closed";
- The check writer's identity is known and can be proven through a driver's license number, state ID number, social security number, or date of birth recorded on the check at the time the check was received;
- The check was not a postdated check or a hold check;
- The check was not a stop payment check, unless the bank verifies that the account the check was drawn against did not have sufficient funds when the check was received;
- The check was not a two-party check;

- The check was not for payment on an account;
- The check is not more than 23 months old; and
- The check writer has not made restitution or signed a promissory note regarding the check.

If the worthless check does not satisfy this criteria and it is under \$100, you may file Class C criminal charges in the precinct in which the check was received or services were rendered through the Montgomery County Justice of the Peace for Precincts 1, 2, 4, or 5. For Precinct 3, Class C criminal charges must be filed with the Precinct 3 Constable. You may also file a civil lawsuit with the clerk of the Justice of the Peace.

Information regarding County departments and JP courts may be found online at www.mctx.org and at the following locations:

Justice of the Peace, Precinct 1: 300 S. Danville Street, Willis 77378 (936) 539-7801

Justice of the Peace, Precinct 2: 2241 North 1st Street, Conroe (936) 538-3788

Justice of the Peace, Precinct 3: 1520 Lake Front Circle, Ste. 100, The Woodlands 77380
(281) 364-4284 or (936) 539-7803

Constable, Precinct 3: 1520 Lake Front Circle, Suite 200 The Woodlands 77380
(281) 364-4211 or (936) 539-7813

Justice of the Peace, Precinct 4: 22354 Justice Drive, New Caney 77357 (936) 521-8970

Justice of the Peace, Precinct 5: 19100 Unity Park Drive, Magnolia 77355 (936) 539-7806

How to File a Worthless Check

If a worthless check satisfies our initial assistance criteria, follow these steps to file it with our office:

- Send a demand letter to the check writer via certified mail with return receipt requested. The law states that the demand letter **MUST** include this language:

This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.

This demand letter should be sent to the address on the face of the check or to the check writer's address on file with the records of the check writer's bank. If the check is a business check, it must also be sent to the personal address of the individual who wrote the check.

- If the demand letter has been returned unclaimed or refused, or if fifteen days have passed from the day the letter was sent, you may file the worthless check with our office. Please bring the following items:
 1. The returned check;
 2. A copy of the demand letter you sent;
 3. The certified mail receipt "green card" or the entire sealed letter that was returned unclaimed or refused. If you don't have either of these items, you may submit to us an Affidavit of Service (available at our office or online through our website); and
 4. Our office's Worthless Check Information Form (available at our office or online through our website).