

Procedure Prior to Accepting Any Checks

The following procedures MUST be followed prior to accepting a check in exchange for anything of value. "Anything of Value" includes money, property, services, goods, wares and lodging. If this procedure is not followed, the District Attorney's Office may decline the case due to insufficient evidence.

Review: The merchant or representative must always ask to see photo identification (photo driver license, military ID, etc.) and the merchant must ensure that the check writer and the photo identification are the same person.

Record: The driver's license number, date of birth, and/or social security number must be recorded on the check by the cashier.

Verify: The address provided on the check must be verified against the address on the driver's license to make sure they are the same and the clerk must place his/her initials next to the address on the check to show verification. If the address on the check is not the current address, the current address must be written on the check. The check writer's signature on the issued check must be compared to the signature on the identification to ensure they are comparable. To make certain the signature was reviewed, the cashier should initial above the signature to show verification.

**The above procedures must always be followed as a business practice so a witness will be able to testify in court that he/she knows positively, that all steps were followed.*

Procedure After Receipt of a Worthless Check

Notice: Notice must be provided to check writer that their check has not been honored. Notice should be sent by certified mail, return receipt request, to the address furnished by the check writer on the check. The notice shall provide ten (10) days for the check writer to pay. This period of time dates from the mailing of the certified letter, not the date of receipt by the check writer.

Forward: If after expiration of the ten (10) day waiting period, the check writer has not paid, checks written in Dona Ana County should be sent or delivered to the Third Judicial District Attorney's Office-Worth Check Program, 845 N. Motel Blvd., Suite D, Las Cruces, NM 88007. When presenting a worthless check for processing and prosecution, please provide:

1. The original check;
2. The certified mail receipt;
3. A copy of the notice;
4. Complaint form; and
5. List the name and contact information of the clerk who received the original check.

Please remember, once a check is referred to the District Attorney's Office, you cannot accept monies from the check writer. Check writers must be referred to the District Attorney's Office. The checks received by the District Attorney's Office with the appropriate accompanying documentation will be processed. Worthless check writers will be contacted for collection to make payment, to include the certified mail to include the certified mail costs that may have incurred. If payment is not received, the case will be referred to law enforcement for any additional investigation. The case will then be processed for prosecution.

Worthless Check Program

Mark D'Antonio

"Justice Matters"



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A Message From Your District Attorney

Purpose

Tips To Prevent Losses From The Passing of Bad Checks

We at the Third Judicial District Attorney's Office are troubled by the damage done to innocent parties by those who pass bad checks to local businesses. Merchants lose millions of dollars every year due to offenders who pass bad checks. The dollars needed to fund law enforcement and prosecution efforts to hold these offenders accountable increase every year.

To fight this growing problem, we have organized the Worthless Check Restitution Program to help victims of bad checks recover complete and quick restitution without increasing the financial burden on taxpayers and the criminal justice system.

Through the program, we give bad check offenders the opportunity to avoid criminal prosecution by paying immediate and full restitution and attending a mandatory educational class. We do all this without any additional expense to the taxpayers of Third Judicial District.

I encourage local businesses to participate in this program. The Worthless Check Restitution Program is a proven, effective way to help victims recover their financial losses, hold first time offenders accountable and reduce the negative effects of bad checks at no cost to law abiding citizens of our district.

Working together, we can stop the passing of bad checks in our community.



Mark D'Antonio
Third Judicial District Attorney

It is the purpose of the Worthless Check Act [30-36-1 NMSA 1978] to remedy the evil of giving checks on a bank without first providing funds in or credit with the depository on which they are made or drawn to pay or satisfy the same, which tends to create the circulation of worthless checks on banks, bad banking, check kiting and mischief to trade and commerce.

Any person violating Section 30-36-4 NMSA 1978 shall be punished as follows:

- When the amount of the check, draft or order, or the total amount of the checks, drafts or orders, are for more than one dollar (\$1.00) but less than twenty-five dollars (\$25.00), imprisonment in the county jail for a term of not more than thirty days or a fine of not more than one hundred dollars(\$100), or both such imprisonment and fine;
- When the amount of the check, draft or order, or the total amount of the checks, drafts or orders, are for twenty-five dollars (\$25.00) or more, imprisonment in the penitentiary for a term of not less than one year nor more than three years or the payment of a fine of not more than one thousand dollars (\$1,000) or both such imprisonment and fine.

There are questions you should always ask yourself when accepting a check for payment. Following these simple rules can help stop check fraud before it starts:

How Low is the Check Number? Most bad checks are written on new accounts so be especially cautious of checks with low check numbers ("low 100's or "low 1000's").

Did I Check the Signature? Watch the person sign the check. Compare the signature against a photo ID that contains the person's signature, a Driver's License is best. Record the Driver's License number *and* the state of issuance on the check at the time of acceptance.

Do the Check Amounts Match? Be sure the amount written in numbers and the amount written in words on the check are the same.

Did I Get Enough Information? You should always obtain as much identification as possible. The Driver's License Number with Issuing State is preferred but, at a minimum you MUST get the following:

- Name
- Address (a street address is best)
- City - State - Zip
- Phone Number
- Drivers License and State of Issuance, Social Security, Military or Student Number

Non-qualifying checks - Post-dated, Held, Three Party and Stop Payment checks do not qualify for this Program.