

# OFFICE OF THE STATE ATTORNEY

SEVENTH JUDICIAL CIRCUIT OF FLORIDA  
VOLUSIA, FLAGLER, PUTNAM & ST. JOHNS COUNTIES

R.J. Larizza  
STATE ATTORNEY



251 North Ridgewood Avenue  
Daytona Beach, FL 32114-7509  
Phone (386) 239-7710  
Fax (386) 239-7716

Thank you for contacting my office concerning the worthless check you have received. Every month my office collects approximately \$65,000 in restitution for the victims of worthless checks within our communities. We will make every effort to collect payment for you.

The Florida Legislature enacted laws that assist us in seeking restitution for you. These laws allow us to establish the identity of the check signer and their intent to defraud, both of which are required by law for prosecution. The law requires that you give a fifteen (15) day notice to the check signer that the check has been returned marked "**Insufficient Funds.**" You must use the language provided in the statute for the "notice", which I have included in this packet. You are required by the law to send this notice to the check signer by certified or registered mail evidenced by return receipt or by first class mail with a sworn affidavit showing the notice was mailed to the address on the check or address given when the check was passed. You may charge the check writer a service charge from twenty five (25) dollars up to five (5) percent of the check amount for your efforts. We have included in this packet a set of instructions, a copy of the "notice language", and a copy of the Florida Statute that will assist you with the notification requirement. If the bank returned the check marked "**Account Closed**" you are not required to send the "notice" and may proceed to file the Sworn Complaint For Worthless Check" with my office.

If you do not receive payment on the check we have included a "Sworn Complaint For Worthless Check" form with instructions for you to complete and return to our office. This form contains the information we need to begin our efforts on your behalf.

Please remember to include a copy of the returned worthless check, and the documentation of "notice" given on any "Insufficient Funds" worthless check, with the complaint form along with copies of any contracts, orders, check cashing identification information or receipts. Upon receiving the "Sworn Complaint For Worthless Check" we will begin our efforts on your behalf.

Please call my Worthless Check Division at the numbers given if you need further assistance or have any questions about the process or instructions. Thank you again for allowing my office to assist you in collecting payment on the worthless check you received.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. J. Larizza", written over a series of horizontal lines.

R. J. LARIZZA  
STATE ATTORNEY

## **R. J. LARIZZA STATE ATTORNEY**

### **INSTRUCTIONS FOR WORTHLESS CHECK NOTIFICATION**

We have developed our Worthless Check Program to help the victims of worthless checks obtain restitution. Under Florida law we need your assistance to proceed with our collection efforts for you. If the check was returned marked "insufficient funds", or words of like meaning you are required to send this notice. If the check is marked "Account Closed", "No Account" or "Account Not Found", you are not required to send this notice and you may proceed to filing a criminal complaint. We have included separate instructions for filing the worthless check complaint.

#### **I. Sending the Required Fifteen Day Statutory Notice to Check Writer**

- (A) Send the notice required by statute to the check signer. A copy of the notice is attached for your use.
- (B) Use the address on the check or the address given by the check signer when it was presented.
- (C) Fill in the check number of the check you were given, the dollar amount of the check, the date on the check and the bank on which the check was drawn.
- (D) List the dollar amount you are due by adding the service charge you are entitled to receive based on the dollar amount of the check to the restitution amount. The service charge amounts are as follows:
  - 1) \$25.00 if the face amount of the check does not exceed \$50.00.
  - 2) \$30.00 if the face amount of the check exceeds \$50.00 but does not exceed \$300.00.
  - 3) \$40.00 if the face amount of the check exceeds \$300.00 or 5% of the face amount of the check, whichever is greater.
- (E) Fill in how the cashier's check or money order is to be made payable to you.
- (F) Give the address you wish to receive payment at.
- (G) Sign and date the notice.
- (H) Send by certified or registered mail receipt requested or by first class mail. If you use first class mail and do not receive payment, you will be required to file the "Affidavit of Service of Mail" (copy included) if you choose to pursue prosecution of your case.

## **R. J. LARIZZA STATE ATTORNEY**

### **INSTRUCTIONS FOR FILING WORTHLESS CHECK COMPLAINT**

#### **Filing a Criminal Complaint:**

- A. You must provide the following documentation to support each complaint you file.
  1. The original copy of the check(s) – One check per complaint affidavit.
  2. If the check was returned for “Insufficient Funds” or words of like meaning, you must include a copy of the required (15) day notice.
  3. If the notice is mailed certified or registered mail return receipt requested, attach the original envelope return receipt (green card signed by recipient), the receipt showing failure to claim the letter, **or** if the notice is sent by first class mail, attach a sworn affidavit of service of mail. Please use the affidavit form provided.
  4. Legible copies of any order, contract, or other business records of the transaction with the check signer. These records can be used to establish the identity of the check signer.
  
- B. Before submitting your complaint and supporting documentation to the State Attorney’s Office, you must complete the Worthless Check Complaint Affidavit in full and have it notarized. Your completed affidavit will then be processed through the Diversion Program and or referred for criminal prosecution.
  
- C. Finally, submit your complaint and supporting documentation to the Worthless Check Division of the State Attorney’s Office at one of the following locations:
  1. Daytona Beach – 251 North Ridgewood Avenue, Daytona Beach, Florida 32114
  2. Deland – 101 N. Alabama Ave., Deland, Florida 32724 (386)822-6400
  3. Palatka – Putnam County Courthouse, 410 St. Johns Avenue, Room 109 **or** P. O. Box 1346, Palatka, Florida 32178 (386)329-0259
  4. St. Augustine – 4010 Lewis Speedway, Suite 2022, Bldg. A, St. Johns County Courthouse, St. Augustine, Florida 32084, (904)209-1620
  5. Bunnell – Kim C. Hammond Justice Center, 1769 E. Moody Blvd., Building 1, 3<sup>rd</sup> Floor , Bunnell, Florida 32110 (386) 313-4300
  
- D. You may visit our website at [www.sao7.org](http://www.sao7.org) to download more worthless check Forms as needed.

## FAQ'S

- 1. Does the State Attorney's Office charge me a fee for trying to collect payment on the bad check?**

No. This service is provided to you for free.

- 2. Do I have to send the 15 day notice letter to the check writer?**

If the check was returned marked "Insufficient Funds" or words of like meaning, you must send the notice. If it was returned marked "Account Closed", "No Account" or "Account Not Found", you are not required to send the notice. Sending the notice allows us to prove the "intent" by the check writer to defraud, which is necessary under the law. If the account was "closed" that suffices by itself.

- 3. Can I charge a fee for sending the 15 day notice?**

Yes. You may charge a service fee for your collection efforts based on the amount of the check. The fees are \$25 for a check amount up to \$50, a \$30 fee for a check from \$50 up to \$300; and a \$40 fee for any check amount \$300 and over or up to 5 percent of the face amount of the check whichever is greater.

- 4. What is required by law to be included in the 15 day notice?**

A copy of the notice is supplied with this packet. Just fill in the blanks and you will have complied with the law.

- 5. Can I send it by First Class mail or do I need to send it by certified or registered mail?**

You may use either. If you choose First Class Mail you must file an "Affidavit of Service" (a copy is included in this packet) with your complaint to this office if you choose to pursue charges.

- 6. How do I pursue a criminal prosecution for worthless check?**

You must follow the notice requirement if necessary and then complete the "Sworn Complaint for Worthless Check", have it notarized and forward to our office along with a copy of the check and any supporting documentation such as a contract, check cashing card identification, delivery receipt, etc.

**7. Must the check writer be identified?**

Yes the check writer must be identified. This can be accomplished by several different methods as follows:

- a. You know the check writer personally.
- b. At time check was given, you compared the check writer's photograph on their driver's license or identification card with the person presenting the check and recorded the driver's license/identification card number on the check when it was given.
- c. Recording on the check at the time it is presented the number of a check-cashing identification card issued by the company accepting the check. The law requires you as the acceptor of the check to have a check cashing identification file maintained by you that contains the check presenter's full name, residence address, home phone number, business phone number, place of employment, sex, height, and date of birth.
- d. If received through the mail or by delivery to a representative of the check receiver, identity can be proven by presenting the original contract, order or request for services that the check purports to pay for bearing the signature of the person who signed the check. In this way a delivery or route person for a company can receive the check upon delivery and still prove identity if the check is signed by the same person who signed the original order or contact.
- e. Recording on the check at time of delivery the check writer's full name, residence address, home phone number, business phone number, place of employment, sex, date of birth and height.

**8. Can a criminal charge be brought on a postdated check?**

No. If a check is postdated, the check taker is on notice that funds are not present and a criminal prosecution is not allowed.

**9. If I agreed to delay deposit of the check can it still be prosecuted?**

No. The law presumes that you are on notice the check is not good and will not allow a criminal prosecution.