

Santa Cruz County Attorney's Office  
**Bad Check Program**

# GUIDEBOOK

Simple instructions for using the Santa Cruz County Bad Check Program  
Including instructions on how you can avoid accepting bad checks.



**Don't get Burned accepting Bad Checks**



**Santa Cruz County Attorney's Office**  
2150 N. Congress Dr. Suite 201 Nogales, AZ 85621 (520) 281-8255  
**George E. Silva Santa Cruz County Attorney**

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# Letter From The County Attorney



Issuing a bad check is a crime in the State of Arizona. Pursuant to Arizona Revised Statute, Section 13-807(A), a person commits issuing a bad check if the person issues or passes a check knowing that the person does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check as well as all other checks outstanding at the time of issuance. Issuing a bad check is a Class 1 Misdemeanor. If convicted a person could be sentenced to a 6 month term of imprisonment, a maximum fee of \$2,500.00, and a 3 year term of probation. Moreover, the sentence could include an order to pay restitution for any damages caused by the issuance of the bad check.

Santa Cruz County has its own fair share of bad checks. These bad checks have significant consequences for our community and its citizens. Local businesses must pass on the costs of bad checks to the consumer. As a result, we all pay higher prices for the services and goods offered by our merchants. In hopes of reducing the costs of bad checks and reducing bad checks in general, the Santa Cruz County Attorney's Office has established this bad check handbook. The handbook outlines the steps that must be taken to report a bad check to our office.

It is my sincere hope that you will participate in the Santa Cruz County Bad Check Program. Our success in enforcing our program depends on your participation and cooperation. If we work together, I am sure that we will reduce bad check writing in our county. If you have any questions or encounter problems with our handbook, please call our office.

Thank You  
George E. Silva  
Santa Cruz County Attorney



# Introduction

The Law makes the issuing of a bad check a misdemeanor offense. If you receive a check that is returned for insufficient funds, you may notify the check writer that payment must be made to you for the total dollar amount, along with a statutory collection fee within the period of time set by law. A person who does not respond to your initial warning by reimbursing you for the bad check is subject to prosecution by the Santa Cruz County Attorney's Office.

The Santa Cruz County Attorney's Office Bad Check Program will provide an opportunity for most offenders to avoid prosecution by paying full restitution for the check along with a statutory collection fee. If the check writer does not respond to an initial warning from the bad check recipient, then the check writer will be held accountable by the County Attorney's Office and face possible prosecution.

This guidebook has been written to help merchants and other individuals minimize their losses due to bad checks. It explains specific procedures to use when accepting checks that will help reduce the number of checks returned. It will assist you in correctly processing bad checks with our office. It also explains the services and operation of the Bad Check Program of the Santa Cruz County Attorney's Office. Please read this guidebook carefully and follow all of the steps closely.

The objective of the Santa Cruz County Attorney's Office Bad Check Program is to provide an appropriate punishment for bad check writers and help each person who experiences a bad check loss to recover their money. When the procedures described in this guidebook are followed, the desired results should occur.

# WHEN YOU RECEIVE A CHECK

The first thing you should do when receiving a check is put through a simple screening process. Try to weed out the bad checks before you accept them. Learn the preventive steps outlined below and teach to your employees. They will help reduce your losses and increase the chances for full recovery on bad checks.

## Look at the check

- 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 check numbers are handwritten or lower than 125, exercise caution.
- Checks must be dated the day you receive them. Post-dated checks will not be prosecuted by this office. You take them at your own risk.
- **DO NOT** accept pre-signed checks. **Make certain that every check you receive is signed in your presence.** It is vital that the signature is legible. If not, ask the writer to print his/her name on the check. Compare the name with a valid driver's license or other I.D.
- Make sure that the numeric dollar amount matched the written dollar amount. A check for \$16.25 should say in words: "Sixteen and twenty-five/100 dollars" or "Sixteen and 25/100 dollars".
- Banks will not accept checks with discrepancies. Check to see if any words or numerals on the checks have been altered. Look for different handwriting, different color ink, or any other suspicious differences. If you notice discrepancies, you should reject the check
- Look for changes or additions to the name of the payee. If the color, density, or writing of the name appears different, there may have been an alteration. If the check appears to be made payable to two or more payees in the alternative (for example: "AB or CD") and the second name appears different in color, density, or writing, there may have been an alteration.
- Make sure the check writer **DOES NOT** write his/her Driver's License number, or other photo I.D. number on the check. Ask for I.D. and do it yourself. This protects against false numbers being provided. The presence of your handwriting is another way for you to identify the checks at a later date, as required for prosecution.

### **Always Demand Identification**

The main purpose of requiring identification is to minimize the chance of receiving a bad check. Also, each form of identification you record on a check is another way for the Bad Check Program to identify the check writer at a later date. For example, the driver's license number written on each check allows the Bad Check Program to obtain a copy of the license. The copy of the license supplies a photo, handwriting sample, and description of the check writer, which is needed for successful prosecution, and issuance of arrest warrant.

- The best form of identification is an Arizona Driver's License or an Arizona Identification Card. **A photo I.D. card with a signature is your best defense against forgery.**
- Compare the name, address, and signature on the license with those on the check. Also, be sure to compare the photo on the I.D. with the person. Check the license for the expiration date. **DO NOT** accept checks with expired identification.
- Secondary identification may also help you identify the check writer. Examples of secondary identification are military or business I.D.'s, other I.D. cards (preferably with a picture), credit cards with the name matching the one on the driver's license and social security cards are often times helpful in identifying a subject.
- **RECORD ALL INFORMATION ON THE FRONT OF THE CHECK.** Information recorded on the back of a check may be obscured by the bank's stamp.
- Always record your name, initials, or employee I.D. number as the receiver of the check. The Santa Cruz County Attorney's Office must have a witness to successfully prosecute a criminal case. The witness must be the person who accepted the check. Be certain that the acceptor's identity and branch location, if applicable, can be determined from the face of the check by the person in your company who is responsible for preparing the paperwork for submission to our office. We must return the check to you if all of the proper identification is not provided.
- Write the check writer's driver's license number on the front of the check. Also record the home address and telephone number unless this information is already printed on the check.
- Remember to include any other identifying information, such as: names, numbers from credit cards, vehicle license plate numbers, etc.

**If you still have doubts about a check, don't accept it**

You are not required by law to accept checks. You may lose the sale, but you won't lose the merchandise. Remember, you can't determine if a check and the diligent use of the guidelines in this section can you reasonably assume that a check is good. Your knowledge and use of these techniques are your main deterrents to bad check writers.

**When you receive a bad check**

Be prepared to handle bad checks. Use the information in this section of the guidebook to establish a store policy, and be ready to submit the needed paperwork to the Bad Check Program. Pre-print the required Notice Letter on your letterhead or remove and photocopy the Notice letter that is in the appendix. Maintain a supply of the needed forms: Notice Letter, Witness Forms, and Bad Check Program Cover Sheets can be found in the appendix.

- Prepare the witness form. Complete those blanks for which you have immediate information. The remaining blanks may be completed later, but prior to the time you send the check and other documents to the Bad Check Program.
- Prepare the Notice Letter and have it served or sent to the person who wrote or passed the check via Certified Mail. DO NOT change the language in the Notice Letter because it is written with language by law.
  - The Notice Letter may be hand delivered or sent by certified mail. You may select the method of delivery, but it is required that you attempt notice.
  - If hand delivered, wait 12 calendar days before submitting the check to the Bad Check Program; if sent by certified mail, the law adds 5 days for mailing, so you must wait 17 calendar days from the date of mailing before submitting the check to the Bad Check Program.
  - If you use certified mail, you should print or type "Address Correction Requested" on the envelope in the event the addressee has moved.
- If an individual offers to pay you for their bad checks within the statutory 12 or 17 day period following receipt of the Notice Letter, accept only cash, money orders or cashier's checks. You may also collect a fee for reasonable costs. DO NOT accept partial payment from the check writer, and DO NOT return the bad check to the check writer until you have received payment in full.

## *What To Do With A Bad Check*

### *Submitting the check to the Santa Cruz County Attorney's Office*

- If the check writer does not respond to the Notice Letter, the check may then be submitted to the Santa Cruz County Attorney's Bad Check Program. In doing so, please be certain that all items on the affidavit form are completed. If you have a more current address than the address printed on the check, include that address on the witness form.
- A Cover Sheet is needed the first time you send in bad check. You only need to send another Cover Sheet if you change business name, address or phone number.
- Place the following items in a large mailing envelope.
  - **One Cover Sheet, regardless of the number of checks you are sending.**
  - **Original bad checks stapled to the front of the affidavit form.**
  - **A n affidavit form for each check.**
  - **Copy of Notice Letter.**
  - **Or unopened envelope notice if mail is returned.**
- Mail to: **Santa Cruz County Attorney  
Bad Check Program  
2150 N. Congress Dr. Suite 201  
Nogales, Arizona 85621**

### *Information concerning case status*

Persons requesting information and status on a case submitted to the Bad Check Program should wait at least 60 days before making inquiry of the Bad Check Program. You may either call our office or make written inquiry. If in writing, please include your name and daytime phone number and the name of the bad check writer.

Once you have filed a bad check complaint with the Santa Cruz County Attorney's Bad Check Program, **DO NOT ACCEPT RESTITUTION FOR THE CHECK FROM ANYONE EXCEPT THE SANTA CRUZ COUNTY ATTORNEY'S BAD CHECK PROGRAM.** All monies for such checks must be collected by the Bad check Program. If you accept funds from anyone other than the Santa Cruz County Attorney's Office, you may be liable for the statutory County Attorney fee. Also, you will not have the check in your possession to return the check to the writer once you have been reimbursed. We DO NOT collect for your check(s). We collect the face value of each check only. Full restitution will be paid to you when collection is successful.

### **Restitution monies**

When a bad check writer makes a payment to the Bad Check Program, it is recorded and deposited into an account. Restitution checks will be issued to victims monthly when collection has been successful. Along with your payment, you will receive a computer printout containing the Bad Check Program I.D. number, the name of the bad check writer, the bad check number, and the date and the amount of the check.

### **Checks that cannot be collected**

Once a check is submitted to the Bad Check Program, The Santa Cruz Attorney's Office retains the right to proceed with criminal prosecution of the check writer. When the Santa Cruz County Attorney's Office proceeds with prosecution, the check becomes evidence in the criminal proceeding and sole control of that check rests with the Santa Cruz County Attorney's Office. **In summary, no checks will be returned without the consent of the Santa Cruz County Attorney's Office, and no checks will be returned if a criminal complaint has been filed in court.**

If, after you have requested collection/prosecution, the check writer contacts you and wants to pay off the check(s), **you must refer him/her to the Santa Cruz County Attorney's Bad Check Program. DO NOT accept full or partial payment on the face value of the check.** Doing this will end all collection efforts by this office on your behalf. And you will be liable for all fees imposed to the bad check writer.

## Matters Not Handled By The Bad Check Program

### Civil judgments

If you have already obtained a civil judgment against a check writer, the check cannot be processed by this office. Do not send such checks to the Bad Check Program.

Certain types of checks are not handled by the Bad Check Program. Do not send such checks to this office. Most checks that fit into the following categories may, however, be pursued in a civil action. You are advised to seek private legal counsel.

- Checks that are pre-dated/post-dated, or where an agreement was made to hold the check for payment later.
- “Stop Payment” check(s).
- Checks issued in matters which constitute civil disputes.
- Checks not written or passed within Santa Cruz County.
- Checks that are altered or suspected of being forgeries. (These must be reported to law enforcement agencies having jurisdiction in your area).
- Dual signature checks. Such checks require the signature of both account holders.
- Checks for which the payee has been expressly notified or has reason to believe that the drawer did not have deposit sufficient funds to ensure payment on presentation.
- Checks dishonored as a result of an adjustment to the person’s account by the credit institution without notice to the person.
- Credit card slips and credit card checks. These are not checks.
- Checks issued by a debtor to a credit adjustment company or a collection agency.
- Checks redeemed by a guarantor, i.e. assigned by a payee to a guarantor.
- Checks drawn upon a bank located in another state.
- Checks presented by a holder who has previously accepted partial payment from the check writer.
- Checks written 12 months prior to submission to the Bad Check Program.
- Checks which the holder has first given to any private collection agency for action.
- Two-party checks and/or payroll checks.
- Third party checks.

### **How to contact the Bad Check Program**

- Telephone:  
(520) 281-8255
- Email: [gsilva@co.santa-cruz.az.us](mailto:gsilva@co.santa-cruz.az.us)  
[aserrano@co.santa-cruz.az.us](mailto:aserrano@co.santa-cruz.az.us)
- Fax:  
(520) 281-8330
- In Person:  
Santa Cruz County Attorney  
Bad Check Program  
2150 N. Congress Dr. Suite 201  
Nogales, Arizona 85621

### **What Becomes Of he Bad Check Writer**

As soon as the Santa Cruz County Attorney's Bad Check Program receives the completed packet with the check(s), the check writer's name is entered into the Bad Check Program computer. A decision is made as to whether the person will be offered the opportunity to pay restitution or whether the Bad Check Program will proceed immediately with prosecution. If the check writer has no prior history of writing bad checks, he/she will be given the chance to pay restitution.

For those check writers who do not request to pay restitution, criminal charges are possible. A check writer who fails to respond risks arrest, time in jail, and possible conviction, as well as payment of fines and restitution.

The filing of charges against a check writer depends on whether sufficient evidence exists to charge the person with a criminal offense. If charges are filed, the receiver of the check, and any witnesses, will be subpoenaed at the time of the trial. If restitution is paid prior or subsequent to trial, funds will be disbursed through the Bad Check Program to victims.

**Bad check program forms**

This guidebook contains copies of all forms that you will need to submit to the Bad Check Program, along with the bad checks, in order to start collection procedures.

**The forms may be torn out and photocopied for your use.**

# NOTICE LETTER

Date \_\_\_\_\_

To \_\_\_\_\_  
(Name of Check Issuer/Passer)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip Code)

You are, pursuant to law, notified that the check or instrument shown or described below, issued by you, has been dishonored.

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Instrument/Check Number \_\_\_\_\_ Instrument/Check Date \_\_\_\_\_

Originating Institution, Bank or Other Drawee \_\_\_\_\_

Amount \_\_\_\_\_ Payable to \_\_\_\_\_

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

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Pursuant to Arizona Law, you have (12) days from receipt of this notice to pay or tender to the holder named below the full amount of the check or instrument, together with reasonable costs and protest fees. Unless this amount is paid in full within the time specified above, the holder of the dishonored check or instrument may turn it, and all other available information relating to the incident, over to the Santa Cruz County Attorney's Office for criminal prosecution.

Check Amount \_\_\_\_\_ Signed \_\_\_\_\_

Fee Amount \_\_\_\_\_ Name \_\_\_\_\_

Total Owed \_\_\_\_\_ Address \_\_\_\_\_

Telephone # (s) \_\_\_\_\_

# COVER SHEET

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**Read the Santa Cruz County Attorney Bad Check Guidebook to ensure that all appropriate procedures have been followed. Be sure to include this form, a complaint on each person, and an affidavit for each check.**

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Date \_\_\_\_\_

Name of Store/Organization/Person who passed the check \_\_\_\_\_

Store Location/Address where check was received \_\_\_\_\_

Numbers of the enclosed checks \_\_\_\_\_

Name of person submitting packet \_\_\_\_\_

Your business name \_\_\_\_\_

Address & Zip code \_\_\_\_\_

Contact person in your organization for Bad Check Program \_\_\_\_\_

Contact person's telephone number \_\_\_\_\_

Your type of business and/or store \_\_\_\_\_

How should Restitution checks be made \_\_\_\_\_

Is this a single-site or multi-site organization? \_\_\_\_\_

If multi-site, how many locations in Santa Cruz County? \_\_\_\_\_

Name of Headquarters \_\_\_\_\_

Headquarters address and zip code \_\_\_\_\_

Headquarters telephone \_\_\_\_\_

Contact person headquarters \_\_\_\_\_

# SANTA CRUZ COUNTY ATTORNEY'S OFFICE BAD CHECK INFORMATION AND AFFIDAVIT

The undersigned affiant makes the following statements: I have good reason to believe and do believe that \_\_\_\_\_, hereinafter called the accused, did commit the offense of **Issuing A Bad Check**. My belief on the following facts, as shown by the completed information set out below, to-wit:

## Facts About The Accused

Drivers License \_\_\_\_\_ State \_\_\_\_\_

SSN \_\_\_\_\_ Approx. Age/D.O.B. \_\_\_\_\_ Eyes \_\_\_\_\_

Race \_\_\_\_\_ Sex \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_ Hair \_\_\_\_\_

Home Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_

## Facts About The Check(s)

Address and city where check was passed \_\_\_\_\_. Check was presented to bank within 30 days after receipt. The accused delivered the check in person, or if not the check was delivered by (Name, Address & Telephone Number) \_\_\_\_\_

\_\_\_\_\_

Check \_\_\_\_\_ Date Issued \_\_\_\_\_ Amount of Check \_\_\_\_\_

Name, Address & Telephone of Person Who Accepted Check \_\_\_\_\_

\_\_\_\_\_

Check Given For \_\_\_\_\_

Additional helpful information about this case \_\_\_\_\_

\_\_\_\_\_

I hereby swear or affirm that the above information is true and correct to the best of my knowledge; that the above check was given in Santa Cruz County, Arizona; that said check was believed to have good when accepted; that no partial payment has been made on said check; that I personally received said check or that by virtue of my employment. I have reviewed the business records maintained by my employer and have authority to make this affidavit on behalf of the holder ; that I understand that if charges are filed a warrant may be issued for the accused who may be placed in jail.

Print Affiant's Name (Complainant) \_\_\_\_\_

Affiant's Signature \_\_\_\_\_