

CASCADE COUNTY BAD CHECK POLICY ,
January 2013

The following information should be read carefully and shared with each employee in your business. This information is provided in an effort to try to reduce the rising number of bad checks in Cascade County. Prevention is your best protection.

PREVENTION/PROTECTION

1. Obtain accurate information
 - a. Full name, address (remember no one lives in a P. O. Box) and phone number;
 - b. Driver's license number and birth date;
 - c. **SEE** a valid driver's license, preferably a Montana one;
 - d. Witness the signing of the check and initial it.

(NOTE: All these are necessary to not only obtain payment but also to issue a warrant of arrest and to allow us to possibly subpoena the person who took the check as a witness in a subsequent trial.)

2. **NEVER ACCEPT:**

- a. Post-dated checks
- b. Out-of-state checks
- c. Two-party checks
- d. Counter checks

- e. Checks having no number
- f. Checks not signed in your presence
- g. Checks in excess of the amount of purchase, unless within your organization's set limit
- h. Checks to be held until later
- i. Checks in restitution for bad checks

PROSECUTION

1. When a check is returned for NSF:
 - a. Send written notice by certified mail, return receipt to the writer of the check to establish evidence that the writer knew he/she wrote a bad check. See the sample letter designated Form A.
 - b. If restitution is not received by you within the time limit, fill out Form B, and send or bring the check, Form B, and the green card from your certified mail to the County Attorney's Office immediately. Keep a copy of your letter and a copy of the check for your reference and for use in court, if needed.

When a check is returned marked "Account Closed":

- a. When a check is drawn on a bank in which the maker has no account or the account was closed, it shall be presumed that such check was issued with intent to defraud, and the letter requirement above is not necessary. Send the check and Form B to the County Attorney's Office.

When a check is returned marked "Forgery" or "Irregular Signature":

- a. Forged checks should be taken immediately to either the Great Falls Police Department (if you received the check within city limits) or the Cascade County Sheriffs Office (if you received the check outside city limits.) Ask the agency to begin a forgery investigation.

L If the check writer wishes to make restitution on a bad check after the check is sent to the Count Attorney's Office:

- a. **Restitution is to be made directly to the County Attorney's Office.**
- b. Restitution must be made by either a money order or cashier's check made payable to the victim(s).
**Do not make the cashier's check or money order payable to the Cascade County Attorney's Office.
It must be made payable to the victim(s).**
- c. It is the responsibility of the check writer to pick up the bad check from the County Attorney's Office
- d. If we enter into a deferred prosecution agreement with the check writer, restitution must be paid in full and a cost of prosecution in the amount of \$25,00 for a misdemeanor and up to \$250.00 for a felony will be required. The bad check writer will be advised of the amount assessed for the cost of prosecution and must include a money order or cashier's check, made out to the Cascade County Attorney's Office, for that amount when paying restitution.

The Count Attorney's Office cannot prosecute:

- a. Checks that have no identification, because we cannot obtain an arrest warrant without a reliable form of ID.
 - b. Post-dated checks.
 - c. Second party checks.
 - d. Single checks for small amounts (under \$25.00). Because we may have received other checks by the same writer, send us checks over \$10 and we will attempt to collect. However, if there is only one check, and it is less than \$25.00, it will be returned to the business.
 - e. Checks beyond the statute of limitations (6 months for a misdemeanor - under \$1,500.00; 5 years for a felony.)
 - f. Misdemeanor amounts outside of Montana.
 - g. Forgeries, until law enforcement completes an investigation.
6. The County Attorney's Office:
- a. Upon receipt by the County Attorney's Office of the check(s), Forms A, B and C (if applicable), and the certified letter return receipt, the Cascade County Attorney's Office will attempt to collect restitution from the check writer by giving the check writer notice of the bad check and approx. thirty days within which to pay the check.
 - b. Will file a criminal complaint if restitution is not paid.
 - c. Cannot collect fees for businesses. You may seek your civil remedy instead of presenting the check to our office, as set forth in Section 27-1-717. MCA.

Bad checks are an expensive and time-consuming problem . We hope the above measures will reduce the number of bad checks and clarify what we do.

We are all concerned with the number and dollar amounts of bad checks being issued in Cascade County. A major part of these can be avoided by taking the necessary precautions and educating your employees in the policies as listed above.

Hopefully, with continued cooperation between Cascade County merchants and Cascade County law enforcement agencies, we can reduce a significant number of these checks.

If you have any questions, please feel free to call the County Attorney's Office at 454-6915.

Thank you.

Sincerely,

John W. Parker
CASCADE COUNTY ATTORNEY