

INSTRUCTIONS FOR REFERRING A WORTHLESS CHECK

Upon receipt of notice that a check paid to you by a customer was either insufficient or drafted upon a closed account you must take several steps before referring the matter to the DA's office.

1) IS THIS A WORTHLESS CHECK – UNDER WIS. STAT. SEC., 943.24?

- a. A worthless check is one in which the customer did not have sufficient funds within their account to cover, or had an account which was previously closed at the time they paid you via check.
- b. A worthless check is NOT:
 - i. A post dated check.
 - ii. A check written for past consideration.

2) NOTICE TO THE CUSTOMER:

- a. Notify the person who issued the worthless check that you have received the check back via CERTIFIED LETTER with return receipt requested. Keep a copy of the letter. This letter should indicate that the customer has 5 days to pay you or it will be referred to the Marquette County District Attorney's Office for prosecution. Doing this allows us to prove that at the time they issued the check to you, they did not intend to pay you for the goods they purchased. Although the statute doesn't require the letter to be certified, it gives us the ability to stop them from arguing they never received notice.

3) FILLING OUT THE FORMS

- a. This can be the most important part of the referral. We need as much information as we can get, as it can be sometimes hard to identify the individual who passed the check. Therefore, your employees need to gather as much information from a check writer when accepting checks as payment for goods. As listed on the form, the driver's license and description of the individual passing the check are key. Having your employee's write the driver's license down on each check, although time consuming, can help establish the identification in court.

4) OTHER NECESSARY DOCUMENTS:

- a. The original check passed at your business.
- b. A copy of the letter you sent to the customer giving them notice that their check bounced.
- c. A copy of any documentation from the bank indicating why the check was returned.
- d. The signature card from the certified mailing, or if it sat unclaimed and returned to you, then the stamped returned mail envelope in its entirety.
- e. Any documentation of fees charged by your bank for the check.

After referring the case to the DA's Office you can not take payment on the check personally from the customer unless you notify us in writing via a supplied restitution release. This can be sent via email or fax to the DA's office. Do not accept checks as payment of restitution during the pendency of the case. We require notice of payment to you from the defendant within 12 hours of receipt. We do this because our offers of settlement vary greatly depending upon whether a defendant has taken responsibility and made you whole by paying restitution up front. We won't deter you from taking the money from them, however, you must give us notice so that we are not seeking the full restitution amount from the defendant as part of the disposition in court. Instructions for providing notice within 12 hours of receipt are outlined on the restitution release.