

## **BAD CHECK PROGRAM INFORMATION**

1. Only Checks stamped INSUFFICIENT FUNDS or ACCOUNT CLOSED will be accepted for prosecution.
2. If a check has been identified as ACCOUNT CLOSED, the check will be forwarded to local law enforcement for further investigation to determine if the account was closed at the time of passing of the check.
3. Not all insufficient bad checks can be accepted for criminal prosecution. Diversion makes an initial assessment of the checks received to determine whether they fit within the legal guidelines of a criminal bad check. Please note that an acceptable check **must** meet one of the following requirements:
  - a. ID of the check-writer was taken by the merchant at the time the check was written
  - b. The person who accepted the check can personally identify the check-writer in court under oath
4. The “Request for Criminal Prosecution for Bad Checks” form must be completed and filed with the Diversion Program.
5. The statutory fee of \$10.00 per check must be paid to the Seward County Treasurer. This amount is non-refundable; but, may be paid back by the check writer.
6. The original check (or a certified copy from the bank) must be attached to the Request for Criminal Prosecution for Bad Checks” form.
7. The County Attorney's Office cannot pursue criminal charges if any of the following conditions exist:
  - a. Checks for payment on contracts and lease agreements
  - b. Checks for which partial payment has been accepted
  - c. Checks included in bankruptcy proceedings
  - d. Checks not written or passed in Seward County
  - e. Checks on which a stop payment order has been filed
  - f. Checks suspected as being forged
  - g. Checks that do not show payee, date, amount and signature
  - h. Checks that were accepted as payment on an account
  - i. Checks that were asked to be held when issued
  - j. Checks that were issued for payment of rent
  - k. Checks that were post-dated when accepted
  - l. Two-party checks

- m. The checkwriter/person passing the check cannot be identified
8. Checks in the amount of \$1,500.00 or more are felony level checks. Checks in the amount of less than \$1,500.00 are misdemeanor checks.
  9. The time period in which the bad check can be prosecuted from the date of issuance is 18 months for misdemeanor amounts and 3 years for felony level bad checks.
  10. This office CANNOT guarantee restitution when a defendant is convicted. Once a defendant is found guilty to a bad check charge, the Court makes the decision as to punishment. The Court may order the defendant to make restitution, but the law does not require this. This office cannot pursue restitution if the Court does not make it a part of the sentence.
  11. Once your request is filled out and turned over to Diversion Services DO NOT accept direct payments from the check writer. Should the check writer contact you to make payment, refer them to Diversion Services.
  12. If the check writer does not comply with the Diversion Services Program, the case may be reviewed for possible criminal prosecution.
  13. If we are unable to recover restitution and/or the check is not “eligible” for prosecution, you may request the check(s) be returned to pursue a civil remedy.

#### **GENERAL PROCESS AFTER REFERRAL ACCEPTED:**

Prior to filing criminal charges in most cases, the check-writer has an opportunity to pay off the check and the statutory fees associated with it. When Diversion receives a check from the merchant, letters are sent to the check-writer at their last known address (usually the address on the check).

The letters notify the check-writer that a bad check has been received and what process will take place, and how the check-writer can avoid criminal prosecution. The letter will advise the signer that a criminal complaint has been made against them and that they have 10 days to pay the bad check(s) plus the statutory fee(s). Check writers are instructed to remit all payments to Diversion Services, made payable to the merchant. All monies collected during a month are paid out to the appropriate victims during the first half of the following month.

If there is no response to the letters, or if payments are not made on a consistent basis, Diversion sends those bad checks to the Criminal Division of the County Attorney's Office to be reviewed for possible criminal prosecution.

**SEWARD COUNTY ATTORNEY'S OFFICE  
REQUEST FOR CRIMINAL PROSECUTION OF BAD CHECKS**

**Please PRINT or TYPE all requested information.**

**PART A**

**Check Number** \_\_\_\_\_ **Amount** \_\_\_\_\_ **Date taken** \_\_\_\_\_

- |  |   |  |   |
|--|---|--|---|
|  | <b>YES</b> <b>NO</b>                              |  | <b>YES</b> <b>NO</b>                              |
| 1. Was check for payment on contracts/lease? | <input type="checkbox"/> <input type="checkbox"/> | 6. Was the check post-dated when accepted?       | <input type="checkbox"/> <input type="checkbox"/> |
| 2. Was check for partial payment?            | <input type="checkbox"/> <input type="checkbox"/> | 7. Was the check accepted as payment on account? | <input type="checkbox"/> <input type="checkbox"/> |
| 3. Receive notice of bankruptcy?             | <input type="checkbox"/> <input type="checkbox"/> | 8. Was the check asked to be held when issued?   | <input type="checkbox"/> <input type="checkbox"/> |
| 4. Was the check issued for payment of rent? | <input type="checkbox"/> <input type="checkbox"/> | 9. Was the check reported as forged?             | <input type="checkbox"/> <input type="checkbox"/> |
| 5. Is the check a two-party check?           | <input type="checkbox"/> <input type="checkbox"/> | 10. Was there a stop payment order?              | <input type="checkbox"/> <input type="checkbox"/> |

	<b>YES</b> <b>NO</b>
Does the check show payee, date, amount and signature?	<input type="checkbox"/> <input type="checkbox"/>
Check written or passed in Seward County	<input type="checkbox"/> <input type="checkbox"/>

**PART B**

Name of business or person turning in check (s): \_\_\_\_\_

Business address: \_\_\_\_\_ City/State \_\_\_\_\_ Zip \_\_\_\_\_

Business phone: \_\_\_\_\_

Name of person completing form \_\_\_\_\_ Position \_\_\_\_\_

**CHECK WRITER'S NAME:** \_\_\_\_\_

Phone number (if known): \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Driver's License No: \_\_\_\_\_ Employer if known: \_\_\_\_\_

**EMPLOYEE/WITNESS who accepted check:** \_\_\_\_\_

Can the employee/witness identify the check writer? YES  NO

If yes, please explain how the witness can identify the check writer (For example, was the identity known from prior contacts or personal knowledge? \_\_\_\_\_

Was check written in the presence of the person who took the check? YES  NO

Have you taken checks from this person in the past? YES  NO

Name of person/bookkeeper receiving bad check cases from bank: \_\_\_\_\_

How did you obtain check writer's identification?

Driver's License

Other \_\_\_\_\_

Was photo ID verified at the time the check was passed? YES  NO

What was obtained for check (merchandise, cash, etc.)? \_\_\_\_\_

\*\* Attach receipt if available.

Was written notice sent to check writer? YES  NO

Date Sent \_\_\_/\_\_\_/\_\_\_

Was notice returned? \_\_\_/Response: \_\_\_\_\_

List dates of any other contact, by phone or in person with check writer and information discussed:

\_\_\_\_\_  
\_\_\_\_\_

Any other information of value: \_\_\_\_\_

**PART C**

***\*Attach all original/bank copy of checks to this form***

**I CERTIFY THAT THE INFORMATION CONTAINED IN THIS STATEMENT IS COMPLETE AND TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.**

\_\_\_\_\_  
Signature of Business Representative

\_\_\_\_\_  
Date

Date fee paid	Date received _____
Receipt Number _____	Initials _____