

2013 Mississippi Code

Title 97 - CRIMES

Chapter 19 - FALSE PRETENSES AND CHEATS

§ 97-19-55 - Bad checks and insufficient funds

Universal Citation: [MS Code § 97-19-55 \(2013\)](#)

(1) It shall be unlawful for any person with fraudulent intent:

(a) To make, draw, issue, utter or deliver any check, draft or order to obtain money, delivery of other valuable property, services, the use of property or credit extended by any licensed gaming establishment drawn on any real or fictitious bank, corporation, firm or person, knowing at the time of making, drawing, issuing, uttering or delivering said check, draft or order that the maker or drawer has not sufficient funds in or on deposit with such bank, corporation, firm or person for the payment of such check, draft or order in full, and all other checks, drafts or orders upon such funds then outstanding;

(b) To close an account without leaving sufficient funds to cover all outstanding checks written on such account.

(2) For purposes of Sections 97-19-55 through 97-19-69:

(a) "Check" includes a casino marker issued to any licensed gaming establishment.

(b) "Credit" means an arrangement or understanding with a bank, corporation, firm or person for the payment of a check or other instrument.

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Problem with Bad Checks?

It's a **FREE** service!

We collect the check amount **PLUS \$40.00 for YOU!**

TWO SIMPLE STEPS TO PROCESS NSF AND ACCOUNT CLOSED CHECKS

1. Send a 15-day letter to the check writer.
2. If they don't pay, turn over to the District Attorney's Check Unit and **WE** do the rest.

[The letter in Step 1 above is not required if (a) the account is out of state, (b) the check writer is not a resident of the state, or (c) the account was closed at the time the check was issued/dishonored.]

BENEFITS OF CRIMINAL PROSECUTION

1. It's free, it's easy, and there is no catch!
2. We get you \$40.00 plus the face value.
3. We're not handicapped by a statute of limitations.
4. Bankruptcy does not affect a pending criminal charge.
5. We have an enormous database.

Attached is all the information you need to take advantage of this service. We require you to fill in all consistent information on the originals, i.e. your name, address, phone, etc., so that when you photocopy, your forms are customized for you. If you have any questions, call us at (662) 378-2441. We look forward to helping you.

W. DEWAYNE RICHARDSON
DISTRICT ATTORNEY

TAMICKO R. FAIR
CHECK UNIT DIRECTOR

Email address:
badcheckcollector@gmail.com
We appreciate
your business!

Revised 11/08/2011

Instructions for Bad Check Complaints

- I. You will need to pick up a Bad Check Complaint Packet from our office. The packets may also be faxed or emailed, upon your request. This contains instructions and the forms that you will need.
- II. The check must have been received within the 4th Judicial District, in which is comprised of Washington, Leflore, and Sunflower Counties.
- III. All bad checks must be stamped by the bank either "NSF" (insufficient funds) or Account Closed.
- IV. If the check is stamped "NSF" (insufficient funds), then you must send a Statutory Notice by mail. The check writer must be given fifteen (15) days to make the check "good". After fifteen (15) days have passed and you have not received restitution (payment on the returned check), you may then file a complaint with our BCU. If the letter is returned unclaimed or undeliverable, you may file the complaint immediately. The letter must be sent to the address on the check or the address given by the check writer at the time the check was passed.
- V. If the check is stamped "Account Closed", you do not need to send a letter.
- VI. When you turn in a complaint, you must turn in the original or the Legal Copy (stamped by the bank) of the Check. You must also fill out a complaint form for each check that is turned in.
- VII. Make sure all information is clearly typed or printed on each form given to our office.
- VIII. Once a bad check complaint is filed with our office, you should not accept any payment toward the check. We do not charge merchants for handling their bad checks, however, if you accept payment on the check after you have turned in to our office, then you will be responsible for withdrawing the check. **Mississippi law requires that a business or individual withdrawing a complaint pay a \$30 service charge for each check that is withdrawn.**
- IX. If at any time your business changes location, mailing address, contact person, telephone number, or any other information pertaining to your company please contact the Office of the District Attorney immediately upon discovering the changes aforementioned.

Do NOT File a Complaint If:

- I. You have accepted any partial payment towards the check. Accepting a partial payment from the bad check writer makes the matter civil and must be taken through a lower court.
- II. The check is a two-party check.
- III. The check is stamped "signature does not match" or "forgery". These checks must be taken through the appropriate Law Enforcement Agency.
- IV. The check is stamped "Stopped Payment". These checks will also be taken through a lower court.

What Happens After We Receive A Bad Check Complaint?

We receive a very high number of checks throughout our district. Each check is entered in the order that it is received. A \$40 state fee and a \$40 victim fee is added on to each check. We do not immediately issue an arrest warrant for the offender. State law requires that we send a series of letters giving them a chance to pay on the check through our office.

What Happens if They Still Fail to Pay On the Check?

If the check writer does not respond to our efforts to collect on the check and the check amount is over \$100.00, the check case is presented to the Grand Jury for an indictment. If the individual is indicted, a felony warrant is issued for their arrest. However, in order for us to present the case to the Grand Jury for indictment and prosecution, we must have the check writer's correct Driver's License Number or Social Security Number as well as all pertinent information to track the person for service of indictment. It may take some time for the warrant to be served depending on how quickly the subject can be located, or the ability of law enforcement to serve the warrant.

**OFFICE OF THE DISTRICT ATTORNEY
FOURTH CIRCUIT COURT DISTRICT
WASHINGTON, SUNFLOWER AND LEFLORE COUNTIES
W. DEWAYNE RICHARDSON, DISTRICT ATTORNEY
662-378-2105 Office * 662-332-4665 Fax
EMAIL: badcheckcollector@gmail.com**

BAD CHECK UNIT (BCU)

Section 97-19-55 of the Mississippi Code, commonly known as the "Mississippi Bad Check Law", authorizes District Attorney's Offices throughout the state to assist victims of bad check writers in recovering restitution. The Bad Check Unit is self-sustaining and is funded exclusively by service charges recovered from defendants when payment of restitution is made through our office. In its simplicity, there are no costs incurred by taxpayers!

The Bad Check Unit was built for you, those who create and run businesses that keep our economy strong. Our office is fortunate to have employees with decades of experience in collecting bad checks, and we will continue to aggressively pursue those individuals who prey upon your business.

The District Attorney, W. Dewayne Richardson, has a strong commitment to making sure that those who steal through bad checks will be held accountable. Being a former business owner, he knows and understands the frustration of receiving a bad check. The Office of the District Attorney wants you to know that our Bad Check Unit is here to assist you in your efforts to collect.

We look forward to working with you as we assist you in obtaining the restitution which you are owed as a result of being victimized by those who write bad checks.

With Kindest Regards,

Worthless Check Unit

CHECK UNIT CHECK-LIST

1. The transaction must have taken place in Washington, Sunflower, or Leflore County.
2. The check must be stamped either **Insufficient Funds** or **Account Closed**. No check will be accepted that is stamped **Stop Payment (civil)**, **Post Dated (civil)**, **Signature Irregular/Forgery (police)**, or **Drawn Against Uncollected Funds (Re-deposit)**, etc.
3. No check will be accepted where a partial payment has been accepted or if you agreed to hold the check before depositing. This amounts to an extension of credit, thereby converting this matter from a crime to a civil dispute.
4. A statutory notice must be mailed to the check writer by regular mail, to the address given at the time the check was passed allowing him 15 days from receipt of the letter to make restitution (check amount plus service charge not to exceed \$40.00). You must keep a copy of this letter. If your letter is returned, no further waiting period is required.
5. You are not required by law to mail a notice on (1) a check where the account is out of state, (2) the check writer is not a resident of the state or has left the state, (3) the account was closed at the time the check was issued or dishonored.
6. A complaint and affidavit must be filled out completely in order to initiate the process. Please provide any information you have about the check writer on the complaint that is not listed on the check. The affidavits should be notarized (notary available at our office) and stapled together in the following order:
 - 1) check;
 - 2) complaint;
 - 3) affidavit;
 - 4) copy of letter and affidavit of service by mail, when required.

ONCE CHARGES ARE FILED, THEY WILL NOT BE DISMISSED UNLESS APPROVED BY THE DISTRICT ATTORNEY. MISSISSIPPI LAW REQUIRES THAT THE COMPLAINANT WISHING TO WITHDRAW THE COMPLAINT MUST PAY A FEE OF \$30.00 FOR EACH COMPLAINT WITHDRAWN. IF PAYMENT IS ACCEPTED BY THE VICTIM AFTER A COMPLAINT IS FILED, THE COMPLAINT MUST BE WITHDRAWN AND THE \$30.00 FEE PAID. THIS IS NOT AN OFFICE POLICY, BUT IS REQUIRED BY LAW (SECTION 97-19-75, MS. CODE OF 1972, ANNOTATED, AS AMENDED).

7. We disburse all monies collected once a month, the last week of each month.
8. **RECOMMENDATIONS:** We strongly recommend that you view the check writer's drivers license, compare with photo, and record the number and date of birth on the check. A place of employment and employment phone number are also very beneficial in tracking check writers. As always, the name, address and home phone number of the check writer should be recorded on the check. The party receiving the check should witness the signature and initial the check as evidence of same. These are necessary if we should have to prove our case in court.

Send Regular Mail (keep a copy)

NOTICE OF DISHONOR
(STATUTORY LETTER TO CHECK WRITER)

NAME: _____ DATE: _____

ADDRESS: _____

This statutory notice is provided pursuant to section 97-19-57, Mississippi Code of 1972. You are hereby notified that a check, draft or order numbered _____, apparently issued by you on the _____ day of _____, _____, drawn upon (bank name) _____,

and payable to _____ has been dishonored. Pursuant to Mississippi Law, you have fifteen (15) days from receipt of this notice to tender payment of the full amount of such check, draft or order, plus a service charge of \$40.00, the total amount due being \$_____. Unless this amount is paid in full within the time specified above, the holder may assume that you delivered the instrument with the intent to defraud and may turn over the dishonored instrument and all other available information relating to this incident to the district attorney for criminal prosecution.

NAME/COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

BY: _____

(STAPLE CHECK HERE)

Revised 09/11/2008

COMPLAINT

W. DEWAYNE RICHARDSON, DISTRICT ATTORNEY
P. O. BOX 426, 910 COURTHOUSE LN., GREENVILLE, MS 38702-0426 PHONE 662-378-2441
FOURTH CIRCUIT COURT DISTRICT, MISSISSIPPI

Check Writer's Name _____ Phone _____

Street Address _____

D.L.# _____ S.S.# _____ D.O.B. _____ Race _____ Sex _____

Place of Employment _____ Phone _____

Name of who accepted check? _____ Can they identify? Yes _____ No _____

In which county was the check accepted? Washington _____ Sunflower _____ Leflore _____

Has any partial payment been made on this check? Yes _____ No _____

Was the check given for the purpose of satisfying a pre-existing debt or payment on an account? Yes _____ No _____

What thing of value was received? Mdse. _____ Cash _____ Services _____ Other _____

Check Amount _____ Check Date _____ Addt'l Info _____

THE FOLLOWING ITEMS MUST BE ATTACHED TO THIS COMPLAINT:

1. CHECK (Attach to the top left front of this form)
2. AFFIDAVIT (Attach to the back of this form)
3. IF REQUIRED, COPY OF STATUTORY LETTER AND AFFIDAVIT OF SERVICE BY MAIL (Attach to back of all)

I hereby complain that I have received a bad check from the above check writer, and have sent the above check writer notice pursuant to Mississippi Law, and the above check writer has failed to respond within the time allowed.

I wish to have this matter processed by the District Attorney's Check Unit. I understand that an Arrest Warrant will be issued and held by this unit. I understand that this case is not brought for the collection of a debt, and I further understand that by signing this complaint, I give up the right to accept restitution directly from the check writer, but will receive any restitution through the District Attorney's Office. I also understand that should the check writer fail to surrender, or if no restitution agreement is made, or if the check writer fails to abide by a restitution agreement, then this matter will be prosecuted in Criminal Court; and I will be called upon to testify and aid in this prosecution. I also understand that if, after I have signed this complaint, I wish to withdraw this complaint, I may do so for good cause, but I will have to pay a fee of \$30.00 which is required by law.

This the _____ day of _____, _____.

COMPANY NAME _____

COMPLAINANT SIGNATURE (YOUR NAME) _____

MAILING ADDRESS _____

CITY, STATE & ZIP CODE _____

TELEPHONE _____

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF _____

THIS DAY personally appeared before me, the undersigned authority in and for said County and State aforesaid, (your name) _____, the complainant, who, being duly sworn, upon information and belief and upon the sworn complaint of (your name/company) _____, makes oath that (s)he has probable cause to believe and does believe that in _____ County, Mississippi, on or about the _____ day of _____, _____, that (check writer) _____ did, with fraudulent intent, make, draw, issue, utter, or deliver a check, draft, or order, in the amount of \$ _____ to (your company) _____, drawn on (bank): _____, a copy of said check being attached hereto and made a part hereof as is fully set forth in words and figures herein, for the purpose of obtaining money, services or any article of value and/or for the purpose of satisfying a pre-existing debt and/or making a payment or payments on a past due account or accounts when the said (check writer) _____ well knew at the time of making, drawing, issuing, uttering or delivering said check that the maker or drawer had not sufficient funds in or on deposit with said bank for the payment of such check in full then outstanding, in direct violation of Section 97-19-55, Mississippi Code of 1972 Annotated, as amended, contrary to the form of the statute in such case provided, and against the peace and dignity of the State of Mississippi.

AFFIANT SIGNATURE

SWORN TO AND SUBSCRIBED before me, this the _____ day of _____,
_____.

Commission Expires: _____

NOTARY PUBLIC

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MISSISSIPPI

COUNTY OF _____

_____, being first duly sworn on oath,
deposes and states that he/she is at least eighteen (18) years of
age and that on (date) _____, he/she served the
attached Notice of Dishonor by placing a true and correct copy
thereof securely enclosed in an envelope addressed as follows:

and deposited the same, postage prepaid, in the United States
mail at _____, _____.

Signature

Subscribed to and sworn before me, this the ____ day of
_____, 20____.

My Commission Expires:

Notary Public

(Seal)

Send Regular Mail (keep a copy)

NOTICE OF DISHONOR
(STATUTORY LETTER TO CHECK WRITER)

NAME: _____ DATE: _____

ADDRESS: _____

This statutory notice is provided pursuant to section 97-19-57, Mississippi Code of 1972. You are hereby notified that a check, draft or order numbered _____, apparently issued by you on the _____ day of _____, _____, drawn upon (bank name)

_____ and payable to _____ has been dishonored. Pursuant to Mississippi Law, you have fifteen (15) days from receipt of this notice to tender payment of the full amount of such check, draft or order, plus a service charge of \$40.00, the total amount due being \$_____. Unless this amount is paid in full within the time specified above, the holder may assume that you delivered the instrument with the intent to defraud and may turn over the dishonored instrument and all other available information relating to this incident to the district attorney for criminal prosecution.

NAME/COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

BY: _____