



NSF/ACCOUNT CLOSED CHECKS

A RESTITUTION GUIDE FOR MERCHANTS AND
RESIDENTS

RETURN PACKET TO:

**ELK RIVER POLICE DEPARTMENT
13077 Orono Pkwy NW
Elk River, MN 55330**

NSF AND ACCOUNT CLOSED CHECKS

After receiving a NSF or Account Closed Check-

- A worthless check ledger is included in the packet. It can be helpful if you make an attempt to collect the check on your own by contacting the writer. Sometimes they make statements that are useful later. Record their responses on the form.

After determining that the writer is not going to pay-

- Complete Notice and Demand for Payment form and made a copy for your records. Send, **by certified mail**, the original Notice and Demand and Statutes (609.535) to the account holder. Retain the certified mailing receipt. The items are to be mailed to the address on the check.

NOTE- The US Postal Service will normally attempt to deliver the letter for approximately three (3) weeks before returning it.

- After receiving either the signed delivery receipt or the Unclaimed/Refused letter wait five (5) business days.
- After five (5) business days and you have not received payment for the check complete the Request for Investigation and Prosecution. Be sure to complete the last page referring to who took the check and how the check writer can be identified.

NOTE- The check writer can only be identified by a Minnesota photo driver's license, Minnesota photo identification card or is known personally. If a driver's license or identification card is used, either the driver's license number or date of birth must be written on the face of the check, regardless of whether or not it is imprinted on the check.

The completed packet is now ready to be submitted to the Police Department. **Only copies are submitted.** Make a copy of all documents for your records. The following is the list of items to be submitted:

- Notice and Demand for Payment
- Check (front and back)
- Request for Investigation and Prosecution
- Worthless Check Ledger
- Certified Mailing Receipt
- Certified Delivery Receipt / Unclaimed Letter

The police department will not accept checks older than six (6) months.

A packet is also to be completed on any Stop Payment check, however they will be looked at on a case by case basis.

If you have any questions, contact the Elk River Police Department at 763-635-1200.

WORTHLESS CHECK LEDGER

CUSTOMER: _____ D.L.#: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE: _____

DATE CHECK RECEIVED: _____

BANK CHECK DRAWN ON: _____

CUSTOMER CONTACTS

DATE	CONTACT MADE BY	ACTIVITY AND RESPONSE

**NOTICE AND DEMAND FOR PAYMENT
OF DISHONORED CHECKS**

Date: _____

TO: _____

_____, you are hereby notified that a check dated _____, drawn on the _____ (bank) in the amount of \$ _____ bearing the signature of _____, has been refused because of _____.

Please make immediate payment. If payment is not made in full within five (5) business days after the mailing of this notice, this matter may be referred to the proper authorities for prosecution. The drawee (your bank) will then be authorized to release information relating to your account to the person you issued the check to, check holder, prosecuting authorities or law enforcement agencies, in compliance with Minnesota State Statute 609.535. (Attached hereto is a copy of Minnesota State Statute 609.535.)

Remit payment to:

Sincerely,

609.535 ISSUANCE OF DISHONORED CHECKS.

Subdivision 1. **Definitions.** For the purpose of this section, the following terms have the meanings given them.

- (a) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.
- (b) "Credit" means an arrangement or understanding with the drawee for the payment of a check.

Subd. 2. **Acts constituting.** Whoever issues a check which, at the time of issuance, the issuer intends shall not be paid, is guilty of issuing a dishonored check and may be sentenced as provided in subdivision 2a. In addition, restitution may be ordered by the court.

Subd. 2a. **Penalties.** (a) A person who is convicted of issuing a dishonored check under subdivision 2 may be sentenced as follows:

(1) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than \$500;

(2) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than \$250 but not more than \$500; or

(3) to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is not more than \$250.

(b) In a prosecution under this subdivision, the value of dishonored checks issued by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the dishonored checks was issued for all of the offenses aggregated under this paragraph.

Subd. 3. **Proof of intent.** Any of the following is evidence sufficient to sustain a finding that the person at the time the person issued the check intended it should not be paid:

(1) proof that, at the time of issuance, the issuer did not have an account with the drawee;

(2) proof that, at the time of issuance, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision; or

(3) proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision.

Notice of nonpayment or dishonor that includes a citation to and a description of the penalties in this section shall be sent by the payee or holder of the check to the maker or drawer by certified mail, return receipt requested, or by regular mail, supported by an affidavit of service by mailing, to the address printed on the check. Refusal by the maker or drawer of the check to accept certified mail notice or failure to claim certified or regular mail notice is not a defense that notice was not received.

The notice may state that unless the check is paid in full within five business days after mailing of the notice of nonpayment or dishonor, the payee or holder of the check will or may refer the matter to proper authorities for prosecution under this section.

An affidavit of service by mailing shall be retained by the payee or holder of the check.

Subd. 4. **Proof of lack of funds or credit.** If the check has been protested, the notice of protest is admissible as proof of presentation, nonpayment, and protest, and is evidence sufficient to sustain a finding that there was a lack of funds or credit with the drawee.

Subd. 5. **Exceptions.** This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check or a check issued to a fund for employee benefits.

Subd. 6. **Release of account information to law enforcement authorities.** A drawee shall release the information specified below to any state, county, or local law enforcement or prosecuting authority which certifies in writing that it is investigating or prosecuting a complaint against the drawer under this section or section 609.52, subdivision 2, clause (3), item (i), and that 15 days have elapsed since the mailing of the notice of dishonor required by subdivisions 3 and 8. This subdivision applies to the following information relating to the drawer's account:

- (1) documents relating to the opening of the account by the drawer and to the closing of the account;
- (2) notices regarding nonsufficient funds, overdrafts, and the dishonor of any check drawn on the account within a period of six months of the date of request;
- (3) periodic statements mailed to the drawer by the drawee for the periods immediately prior to, during, and subsequent to the issuance of any check which is the subject of the investigation or prosecution; or
- (4) the last known home and business addresses and telephone numbers of the drawer.

The drawee shall release all of the information described in clauses (1) to (4) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may not impose a fee for furnishing this information to law enforcement or prosecuting authorities.

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Subd. 7. **Release of account information to payee or holder.** (a) A drawee shall release the information specified in paragraph (b), clauses (1) to (3) to the payee or holder of a check that has been dishonored who makes a written request for this information and states in writing that the check has been dishonored and that 30 days have elapsed since the mailing of the notice described in subdivision 8 and who accompanies this request with a copy of the dishonored check and a copy of the notice of dishonor.

The requesting payee or holder shall notify the drawee immediately to cancel this request if payment is made before the drawee has released this information.

(b) This subdivision applies to the following information relating to the drawer's account:

- (1) whether at the time the check was issued or presented for payment the drawer had sufficient funds or credit with the drawee, and whether at that time the account was open, closed, or restricted for any reason and the date it was closed or restricted;

(2) the last known home address and telephone number of the drawer. The drawee may not release the address or telephone number of the place of employment of the drawer unless the drawer is a business entity or the place of employment is the home; and

(3) a statement as to whether the aggregated value of dishonored checks attributable to the drawer within six months before or after the date of the dishonored check exceeds \$250; for purposes of this clause, a check is not dishonored if payment was not made pursuant to a stop payment order.

The drawee shall release all of the information described in clauses (1) to (3) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may require the person requesting the information to pay the reasonable costs, not to exceed 15 cents per page, of reproducing and mailing the requested information.

(c) A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Subd. 8. **Notice.** The provisions of subdivisions 6 and 7 are not applicable unless the notice to the maker or drawer required by subdivision 3 states that if the check is not paid in full within five business days after mailing of the notice, the drawee will be authorized to release information relating to the account to the payee or holder of the check and may also release this information to law enforcement or prosecuting authorities.

History: 1963 c 753 art 1 s 609.535; 1967 c 466 s 1; 1971 c 23 s 56; 1974 c 106 s 1,2; 1981 c 202 s 1; 1981 c 247 s 1-3; 1983 c 225 s 10; 1984 c 436 s 34; 1985 c 140 s 3; 1986 c 444; 1988 c 527 s 2,3; 1991 c 256 s 11-13; 1992 c 569 s 26; 1999 c 218 s 3; 2004 c 228 art 1 s 72

REQUEST FOR INVESTIGATION AND PROSECUTION OF BAD CHECKS

(All of the following questions must be answered unless otherwise indicated.)

Please indicate reason for return:

_____ Non-Sufficient Funds

_____ Closed Account

_____ Forgery

Total dollar amount of check: \$ _____ Check Number: _____

1. Your **Full Name:** _____ **Date of Birth:** _____

2. **Home Address:** _____

3. Phone (Home): _____ (Work): _____

4. Name and Address of firm you represent (if applicable):

5. Can you personally identify the person who signed or passed the check?
_____ Yes _____ No

6. If no, can anyone positively identify the person who signed or passed the check?
_____ Yes _____ No

7. If yes, please list their **full names, dates of birth, home addresses, and home phone numbers:**

8. Name of Party who signed check: _____

9. Is the party who signed the check (if a business account) an authorized employee, owner, or officer?

_____ Yes _____ No _____ Unknown

10. Party's Address: _____

11. Party's Employer (if known): _____

12. Name, address, and phone number of person who passed or gave the check if different from above: _____

13. Date check was written: _____

14. Date check was passed or received: _____

15. Address where check was written: _____

16. Address where check was given or received: _____

17. **Full name, date of birth, and home address** of person who received the check:

18. **Full names, dates of birth, and home addresses** of persons who witnessed the transaction: _____

19. What was check in payment for (i.e., goods/services/rent/past indebtedness): _____

20. If check was given to pay for goods or services, did the party receive these goods and services?

_____ Yes _____ No

21. Were goods or property given for the full amount of the check?

_____ Yes _____ No

22. Please itemize the property received and include your cost on each item:

Property

Cost

_____	_____
_____	_____
_____	_____
_____	_____

23. Has the party made or offered to make full or partial restitution on the check?

_____Yes _____No

If yes, explain, including dates and manner of contact or payment:

24. Type of identification used: (e.g., picture driver's license and driver's license number)

25. Was a photograph or video image captured of the maker or passer?

_____Yes _____No

26. If check was received in the mail and you do not know the maker's identity, or if check was given under conditions making identification unlikely, please

explain: _____

27. Have you had any conversation with the maker or passer about this particular check?

(Please explain, including dates and whether by phone or in person.)

Signature

Date

**THIS PORTION MUST BE COMPLETED BY THE PERSON
WHO PERSONALLY RECEIVED THE CHECK**

Full Name: _____ Date of Birth: _____

Home Address: _____

Home Phone: _____

Can you positively identify the person who signed or passed the check?
_____ Yes _____ No

If yes, explain briefly how you remember this individual:

If no, what identification procedure did you follow when accepting this check?
(i.e., asked for picture ID, compared picture on ID to person, etc.)

Signature

Date

NOTE:

**This case will not be considered for prosecution unless this form is
completed in its entirety.**

CHECK ACCEPTANCE PROCEDURES

MINNESOTA DRIVER'S LICENSE
GAYLE ELIZABETH SAMPLE
 123 MAIN STREET NORTHWEST
 MINNEAPOLIS, MN 55401
 Date of Birth: 1/29/72
 Sex: F
 Height: 5-4
 Weight: 120
 ISSUED 12-2004 EXPIRES 03-22-2007
 3000958005028
 Aberio Sample
 STATUS CHECK 03-24-2004

**ROBERT A. WILLIAMS
 MARY J. WILLIAMS
 101 PARK PLACE
 YOURTOWN, USA 12345**

C-123-123-123- 1430

VOID

NON-NEGOTIABLE

1430

1. Record or circle the identification number (DL # D-123-123-123-123)
2. Have employee initial upper left corner
3. Record home or work telephone number
4. Record date of birth (i.e. DOB 1/29/72)
5. Make sure photo on identification card matches customer
6. Make sure the identification card matches name and address on the check
 If time permits, write down good address as indicated by customer
7. Check the signatures on the identification card and match this signature to the signature on the check (endorsement line). If these signatures do not match, acceptance should be declined.