



Gila County Attorney's Office Bad Check Program Guidebook



Gila County Attorney's Office
Bad Check Program
714 S. Beeline Hwy., Suite 202
Payson, AZ 85541

BAD CHECK PROGRAM GUIDEBOOK
December 2011

Table of Contents 1
A Message from the Gila County Attorney 2
Introduction to the Program Coordinator..... 3
When you receive a check 4
Identification 5
When you receive a bad check..... 6
What to do with a bad check..... 7
Additional information..... 8
Matters not handled by the Bad Check Program 9
What becomes of the bad check writer 10
How to contact the Bad Check Program..... 10
Notice of Dishonored Check Form 11
Cover Sheet Form 12
Witness Statement Form 13
Bad Check Data Sheet Form..... 14
Image Replacement Documents (IRD's)..... 15-16
Sign 17

To the People of Gila County:

The Passing of bad checks is a serious problem in Gila County. The Gila County Attorney's Office joined with the local law enforcement agencies and many local business people to establish the Gila County Attorney's Bad Check Program to combat this problem.

The program is designed to help reimburse local merchants for the losses they suffer from accepting bad checks. These losses are often substantial. We are very pleased to have been able to return thousands of dollars to businesses participating in this program.

The program is available to any person or organization in Gila County. This guidebook contains all the information and forms you need to take advantage of this service. If you have any suggestions on how we can help you further, please let us know. By working together, we can make a difference for Gila County.

Sincerely,

Byron Cotney
Bad Check Program Coordinator

Gila County Bad Check Participants:

I am Byron Cotney, Program Coordinator of the Gila County Attorney's Office Bad Check Program. I hope that this handbook is helpful and will answer many of your questions regarding the program. At the end of this handbook there is a new sign, please post in a conspicuous place.

If you have any questions regarding the forms or the program, please contact me directly at (928) 474-4426.

Sincerely,

Byron Cotney
Bad Check Program Coordinator



WHEN YOU RECEIVE A CHECK

The first thing you should do when receiving a check is put it through a simple screening process, which should aid in eliminating bad checks before you accept them. Learn the preventative steps outlined below and teach them to your employees. This will help reduce your losses and increase the chances for full recovery on bad checks.

Look at the Check

- Be suspicious of checks that have a low check number or no printed check number. Nearly 90% of bad checks are drawn on accounts less than one year old. If check numbers are handwritten or lower than 125, exercise caution.
- Checks must be dated the day you receive them. Post-dated checks will not be prosecuted by this office. You take them at your own risk.
- **DO NOT** accept pre-signed checks. Make certain that every check you receive is signed in your presence. It is vital that the signature is legible. If not, ask the writer to print his/her name on the check. Compare the name with a valid driver's license or other photo identification.
- Make sure that the numeric dollar amount matches the written dollar amount. (Example: A check for \$16.25 should say in words "Sixteen dollars and 25/100 or sixteen and twenty-five/100 dollars")
- Banks will not accept checks with discrepancies. Check to see if any words or numerals on the checks have been altered. Look for different handwriting, different color of ink, or any other suspicious differences. If you notice discrepancies, you should reject the check.
- Look for changes or additions to the name of the payee. If the color, density or writing of the name appears different, there may have been an alteration. If the check appears to be made payable to two or more payees in the alternative and the second name appears different in color, density or writing, there may have been an alteration. (Example: "AB or CD")
- Make sure the check writer **DOES NOT** write his/her Driver's License or Identification number on the check. Ask for the identification and write it yourself. This protects against false numbers being provided. The presence of your handwriting is another way for you to identify the check at a later date, as required for prosecution.

ALWAYS DEMAND IDENTIFICATION

The main purpose of requiring identification is to minimize the chance of receiving a bad check. Also, each form of identification you record on a check is another way for the Bad Check Program to identify the check writer at a later date. For example, the driver's license number written on each check allows the Bad Check Program to obtain a copy of the license. The copy of the license supplies a photo, handwriting sample and description of the check writer. This is needed for successful prosecution and issuance of an arrest warrant.

- The best form of identification is an Arizona Driver's License or an Arizona Identification card. A photo identification card with a signature is your best defense against forgery.
- Compare the name, address and signature on the identification with those on the check. Also, be sure to compare the photo on the identification with the person. Check for an expiration date.
DO NOT accept checks with expired identification.
- Secondary identification may also help you identify the check writer. Examples of secondary identification are:
 - Military Identification Card
 - Business Identification Cards
 - Other Identification Cards, preferably with a photograph
 - Credit Cards with the name matching the one on the Driver's License
 - Social Security Cards are often helpful at times in identifying a subject
- **RECORD ALL INFORMATION ON THE FRONT OF THE CHECK.** Information on the back of the check may be obscured by the bank stamp when it is deposited.
- Always record your name, initials or employee identification number as the receiver of the check. The Gila County Attorney's Office must have a witness to successfully prosecute a criminal case. The witness must be the person who accepted the check. Be certain that the acceptor's identity and branch location, if applicable, can be determined from the face of the check by the person in your company who is responsible for preparing the paperwork for submission to our office. We must return the check to you if all the proper identification is not provided.
- Write the check writer's driver's license or identification number on the front of the check. Also record the home address and telephone number on the front of the check, unless it is already printed on the check.
- Remember to include any other identifying information such as, names, numbers from credit cards, vehicle license plate numbers, ect.

IF YOU STILL HAVE DOUBTS ABOUT A CHECK DO NOT ACCEPT IT

You are not required by law to accept checks. You may lose the sale, but you won't lose the merchandise. Remember, you can't determine if a check is good by the appearance of the check writer. Only through the careful examination of each check and the diligent use of the guidelines in this section can you reasonably assume that a check is good. Your knowledge and use of these techniques are your main deterrents to bad check writers.

WHEN YOU RECEIVE A BAD CHECK

Be prepared to handle bad checks. Use the information in this section of the guidebook to establish a store policy and be ready to submit the needed paperwork to the Bad Check Program. Pre-print the required Notice Letter on your company letterhead or remove and photocopy the Notice Letter that is in the appendix. Maintain a supply of the needed forms: Notice Letter, Witness Forms, Bad Check Program Cover Sheets can be found in the appendix.

- Prepare the witness form. Complete all blanks with all the information available to you. The remaining blanks may be completed late, but prior to the time you send the check and other documentation to the Bad Check Program.
- Prepare the Notice Letter and send by registered/certified mail with return receipt requested or by regular mail that is supported by an affidavit of service by mailing to the person who wrote or presented the check. **DO NOT change the language in the Notice Letter as it is written with necessary language as required by law.**
 - Pursuant to A.R.S. §§ 13-1808 (D) The Notice Letter must be sent registered/certified mail with return receipt requested or by regular mail that is supported by an affidavit of service by mailing.
 - You must wait 12 calendar days from receipt of notice before submitting the check the Bad Check Program; if sent by regular mail, the law presumes that the notice was received no later than five days after it was sent, so you must wait 17 calendar days from the date of mailing before submitting the check to the Bad Check Program.
 - When sending by mail, remember to add "Address Correction Requested" on the envelope in the event that the party has moved.
- If an individual offers to pay you for their bad checks within the statutory 12 or 17 day period following receipt of the Notice Letter, **accept cash only, money order or cashier's check as a form of payment.** You may also collect a fee for reasonable cost. **DO NOT** accept partial payment from the check writer. **DO NOT** return the bad check to the check writer until you have received full payment.

WHAT TO DO WITH A BAD CHECK

Submitting the check to the Gila County Attorney's Office

- If the check writer does not respond to the Notice Letter, the check may be submitted to the Gila County Attorney's Bad Check Program. **In doing so, please be certain that all items on the witness form are completed.** If you have a more current address than the address printed on the check, include that address on the witness form.
- A Cover Sheet is needed the **first time** you send in bad checks. You only need to send another Cover Sheet if you change business name, address or phone number.
- Place the following items in a large mailing envelope:
 - **One Cover Sheet, regardless of the number of checks you are sending.**
 - **Original bad check stapled to the front of the witness form or Image Replacement Document**
 - **A witness form for each check**
 - **Copy of the Notice Letter**
 - **Or unopened envelope notice if mail was returned**
- Mail to:
Gila County Attorney's Office
Attn: Bad Check Program
714 S. Beeline Highway, Suite 202
Payson, AZ 85541

INFORMATION CONCERNING CASE STATUS

Persons requesting information and status on a case submitted the Bad Check Program should wait at least 60 days before making the inquiry. You may either call our office or make a written request. If in writing, please include your name and daytime phone number and name of the bad check writer.

Once you have filed a bad check complaint with the Gila County Attorney's Bad Check Program, **DO NOT ACCEPT RESTITUTION OR PAYMENT FOR THE CHECK FROM ANYONE EXCEPT THE GILA COUNTY ATTORNEY'S BAD CHECK PROGRAM.** All monies for such checks must be collected by the Bad Check Program. If you accept funds from anyone other than the Gila County Attorney's Office, you may be liable for the statutory County Attorney's fee. Also, you will not have the check in your possession to return the check to the writer once you have been reimbursed.

We collect the face value of each check only. Full restitution will be paid to you when collection is successful.

A \$25.00 fee will be added to the collection, to help pay for the certified letter and return check fees.

RESTITUTION MONIES

When a bad check writer makes a payment to the Bad Check Program, it is recorded and deposited into an account. Restitution checks will be issued to victims when collection has been successful. Along with your payment, you will receive a computer printout containing the Bad Check Program identification number, the name of the bad check writer, the bad check number, the date and the amount of the check.

CHECKS THAT CANNOT BE COLLECTED

Once a check is submitted to the Bad Check Program, the Gila County Attorney's Office retains the right to proceed with criminal prosecution of the check writer. When the Gila County Attorney's Office proceeds with prosecution, the check becomes evidence in the criminal proceeding and sole control of the check rests with the Gila County Attorney's Office. **In summary, no checks will be returned without the consent of the Gila County Attorney's Office and no checks will be returned if a criminal complaint has been filed in court.**

If after you have requested collection/prosecution, the check writer contacts you and wants to pay off the check(s), you must refer them to the Gila County Attorney's Office Bad Check Program. **DO NOT ACCEPT full or partial payment on the face value of the check.** Doing this will end all collection efforts by this office on your behalf.

MATTERS NOT HANDLED BY THE BAD CHECK PROGRAM

Civil Judgments

If you have already obtained a civil judgment against a check writer, the check cannot be processed by this office. Do not send such checks to the Bad Check Program.

Certain types of checks are not handled by the Bad Check Program. Do not send such checks to this office. Most checks that fit into the following categories may, however, be pursued in a civil action. You are advised to seek private legal counsel.

- Checks that are pre-dated/post-dated, or where an agreement was made to hold the check for payment later.
- “Stop payment” check(s).
- Checks issued in matters which constitute civil disputes.
- Checks not written or passed within Gila County.
- Checks that are altered or suspected of being forgery. (These must be reported to law enforcement agencies having jurisdiction in your area.)
- Dual signature checks. Such checks require the signature of both account holders.
- Checks for which the payee has been expressly notified or has reason to believe that the drawer did not have on deposit sufficient funds to ensure payment on presentation.
- Checks dishonored as a result of an adjustment to the person’s account by the credit institution without notice to the person.
- Credit card slips and credit card checks. These are not checks.
- Checks issued by a debtor to a credit adjustment company or a collection agency.
- Checks redeemed by guarantor, i.e. assigned by a payee to a guarantor.

WHAT BECOMES OF THE BAD CHECK WRITER

As soon as the Gila County Attorney's Bad Check Program receives the completed packet with the check(s), the check writer's name is entered into the Bad Check Program computer. A decision is made as to whether the person will be offered the opportunity to pay restitution or whether the Bad Check Program will proceed immediately with prosecution. If the check writer has no prior history of writing bad checks, he/she will be given the chance to pay restitution.

For those check writers who do not respond to requests to pay restitution, criminal charges are possible. A check writer who fails to respond risks arrest, time in jail, as well as possible conviction and payment of fines and restitution.

The filing of the charges against a check writer depends on whether sufficient evidence exists to charge the person with a criminal offense. If charges are filed, the receiver of the check and any witnesses will be subpoenaed at the time of the trial. If restitution is paid prior or subsequent to a trial, funds will be disbursed through the Bad Check Program to victims.

BAD CHECK PROGRAM FORMS

This guidebook contains copies of all forms that you will need to submit to the Bad Check Program, along with the bad checks, in order to start collection procedures.

THE FORMS MAY BE TORN OUT AND PHOTOCOPIED FOR YOUR USE.

BAD CHECK PROGRAM CONTACT INFORMATION

TELEPHONE: (928)474-4426

FAX: (928)474-9066

MAILING ADDRESS:

Gila County Attorney's Office
Bad Check Program
714 S. Beeline Hwy., Suite 202
Payson, AZ 85541

Notice of Dishonored Check

TO: _____

Date: _____

Address: _____

You are, pursuant to law, notified that the check or instrument shown or described below, issued by you has been dishonored:

Instrument/Check No. _____

Instrument/Check Date: _____

Originating Institution, Bank or Other Drawer: _____

Amount: _____ Payable To: _____

Reason for Dishonor:

Pursuant to Arizona Law, you have twelve days from receipt of this notice to pay or tender to the holder named below the full amount of the check or instrument, together with all reasonable costs and protested fees. Unless this amount is paid in full within the time specified above the holder of the dishonored check or instrument may turn it and all other available information relating to this incident to the Gila County Attorney's Office for criminal prosecution.

Check Amount: \$ _____

Signed: _____

Fee Amount: \$ _____

Business Name: _____

Total Owed: \$ _____

Address: _____

Telephone: _____

COVER SHEET

Please read the Gila County Attorney's Office Bad Check Guidebook before completing this form. Incomplete or improperly prepared submissions will be returned.

Date: _____ Name: _____

Business Name: _____

Address: _____

Telephone: _____

Number of checks enclosed _____ (each check must be accompanied by a Witness Information Statement)

Make restitution checks payable to: _____

Address to mail restitution to: _____

Attention: _____

Does your business have more than one location: _____ yes _____ No

If yes how many locations: _____

Headquarters address: _____

Telephone Number: _____ Contact Person: _____

Type of Business: _____

If you have any questions concerning this form or any of the procedures you must follow for submittal of bad checks, please refer to the Gila County Attorney's Office Bad Check Guidebook or contact our office Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. (excluding holidays) at (928) 474-4426.

WITNESS STATEMENT

INSTRUCTIONS: Please read the Gila County Attorney's Office Bad Check Guidebook before completing this form. Incomplete Witness Statements will be returned and not processed.
DO NOT ACCEPT PAYMENT from the check writer.

A. VICTIM

Name: _____

Address: _____

Person handling check cases: _____

B. CHECK PASSER

Name: _____

Address: _____

Telephone Number: _____

Arizona Driver's License No. _____

Other Identification information: _____

Check Number	Amount \$	Date

Employee Witness who accepted the check: _____

Name: _____

Address: _____

Work telephone Number: _____ Home Telephone Number: _____

Date Demand Letter Mailed: _____

Be sure to enclose **ORIGINAL** check(s) and a copy of the Demand Letter

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

Signature of Victim/Representative: _____

Date: _____

BAD CHECK DATA SHEET

Account Holder's Name: _____

VERIFICATION: To be filled out by the check acceptor

Can you verify that this is a check you accepted? Yes No

Did you accept and record identification from the check presenter? Yes No

If yes, what was the identification number and type of identification:

Did the identification contain a photograph? Yes No

If yes, did you compare the photograph to the check presenter? Yes No

Is it your common business practice to compare the photograph with the check presenter? Yes No

Did the check presenter receive cash and/or merchandise and/or services equal to the face amount of the check? Yes No

Do you know the check presenter? Yes No

Do you feel that you could identify the check presenter from a set of six photographs of individuals with similar characteristics? Yes No

Did you accept the check(s) postdated/predated, or was an agreement made to hold the check for payment later? Yes No

Do you have any additional information that would help identify the check Writer/Presenter? Yes No

If yes please explain: _____

Did you accept the check with reason to know that funds to cover the Check were not available? Yes No

Check Acceptor: _____

Print Name (First, Middle Initial, Last)

Position/Title

Mailing Address

Phone Number

To Gila County Merchants,

On October 29, 2003, legislation was passed that allows banking institutions to convert original checks and notes to Image Replacement Documents (IRD's). Because of the events that occurred on September 11, 2001, banks realized they cannot depend on airlines or other means of transportation to transport the massive amount of checks to processing centers throughout the country.

The banks decided to convert the documents to an IRD and send them via phone or internet. This would solve the problem of storing documents and transporting them, however, they worried about the integrity an IRD would have in court.

The banks decided they would warrant the IRD to be as valid as the original check. The bank or institution that converts the check to an IRD could be liable for restitution to a victim if the IRD is not accepted in court.

Effective October 29, 2004, the check acceptor will receive an IRD instead of the original check. It will be the check acceptors responsibility to immediately check the IRD for clarity and resolution. If the IRD is not clear contact the banking institution and request the original. Remember the originals will only be kept for a short period of time. You have 40 days from when the document was converted to an IRD to contest it.

I will accept the IRD for collection, as if it was the original check. Handle it for collections as you did with the original checks in the past. Attached is a copy of an IRD. Please contact me at our office Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. (excluding holidays) at (928) 474-4426.

Sincerely,

Byron Cotney
Bad Check Program Coordinator

