

OFFICE OF THE DISTRICT ATTORNEY

FOURTEENTH CIRCUIT COURT DISTRICT



LINCOLN, PIKE & WALTHALL COUNTIES

DEE BATES

DISTRICT ATTORNEY

223 West Bay Street Magnolia, MS 39652
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Under Section 97-19-73 of the Mississippi Code of 1972, as your district attorney I am able to assist in the collecting of bad checks stamped "INSUFFICIENT FUNDS" or "ACCOUNT CLOSED". **This service is free to you, the victim.** My office is authorized to collect the face amount of the bad check plus an additional \$40 victim's fee payable to you as reimbursement for your time and expense. Under the same section of the law, the bad check writer is required to pay the district attorney's office a \$40 fee to cover the expense my office incurs in assisting you.

In this packet you will find a statutory notice form, an affidavit of service by mail and a merchant's complaint form. **Keep the packet on file and make copies of the forms as needed.** Fill out a complaint for each check you turn over, and mail it or bring it to our office with the check taped to the bottom. If a criminal affidavit needs to be signed, my office will do so based on the information you provide.

I ask that you file the complaint with us, preferably within sixty days of the date the check is written, as many bad check offenders change addresses and phone numbers frequently. And please remember that complete and correct information insures the greatest success rate. So when accepting a check, take a few seconds to note the following:

Look at the check writer's driver's license and:

- (1) On the check write the DL # and/or SS # along with the date of birth, race, and sex. Compare the information and picture on the driver's license with the check writer's appearance; and on out-of-state checks be sure to get a social security number and mark the state by which the license was issued.**
- (2) Write on the check a residence address (where the person can be arrested if he doesn't pay), his employer's name and phone number, and the check writer's home phone number.**

If you have any questions, please call our Magnolia office at 783-6677 or our Brookhaven office at 833-3811.

Sincerely,
Dee Bates
District Attorney

CHECKLIST FOR WORTHLESS CHECKS

1. Checks must have been received in Lincoln, Pike, or Walthall counties to be under our jurisdiction. If you have questions, call our Magnolia office (783-6677) or our Brookhaven office (833-3811) and ask for the worthless check unit. Check complaints are processed at our Pike County office and can be mailed or taken to 223 West Bay Street, Magnolia, MS 39652. If it's more convenient for you, though, you may drop them off at our Brookhaven office in the Lincoln County Courthouse at 301 South 1st Street, Room 207.
2. **The district attorney's office can accept only checks stamped "ACCOUNT CLOSED" or "INSUFFICIENT FUNDS"**. Under the law, however, we cannot accept even those if:
 - (a) partial payment has been accepted by you (this makes it a civil case);
 - (b) the check is a forgery (the sheriff's office or police department should be contacted);
 - (c) you agreed to hold the check or allowed the check to be postdated (civil);
 - (d) it is a two-party check (file a civil suit through justice court).
1. If the check is marked "INSUFFICIENT FUNDS" the first time through the bank, a fifteen (15) day statutory notice (see page 3 of this packet) must be sent by regular mail, supported by an affidavit of service by mailing (see page 4 of this packet). The notice must be mailed to the address printed on the check or the address given by the accused at the time of issuance. The check writer must be given fifteen days from the date he receives your letter to pay to you the face amount of the check plus a Forty Dollar (\$40.00) service charge. Please allow five days for delivery of the notice. If the notice is not returned to you and after the twenty days you haven't received payment, then you may file a complaint with our bad check unit. If the letter is returned undelivered, no waiting period is required and you may file the complaint at that time.
2. If the check is stamped "ACCOUNT CLOSED" the first time through the bank, if it's written on an out-of-state bank, or signed by an out-of-state resident, there is no need to send notice. The check may be turned over to our Bad Check Unit immediately.
3. Fill out a complaint form for each check (make copies of the enclosed form). Sign each complaint on the signature line, date each one, and then bring or mail them to the district attorney's office.

Please staple together in this order:

- (1) **The signed and dated complaint form with the original check taped to the bottom;**
- (2) **The affidavit of service**
- (3) **A copy of the statutory notice**

1. When the check unit receives payment on a check, it is mandated by law that we collect the check's face amount plus a \$40 victim's fee for you. Using the check unit costs you nothing unless you withdraw the complaint. Your taking payment after filing with us necessitates an **immediate** call to our office to withdraw. If you withdraw *for any reason*, Mississippi law requires that you, the complainant, must pay a processing fee of \$30.00 to our office.

This Statutory Notice is provided pursuant to Section 97-19-57, Mississippi Code of 1972

Date of notice: _____

To: _____

You are hereby notified that a check, draft or order numbered _____, apparently issued by you on _____ (date), drawn upon _____ (name of bank), 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 Forty Dollars (\$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 intent to defraud and may turn over the dishonored instrument and all other available information relating to this incident to the proper authorities for criminal prosecution.

Name of victim

Affidavit of service by mail shall be adequate if made in substantially the following form:

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) _____, 200____, 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 _____, Mississippi.

(signature)

Subscribed to and sworn before me, this the _____ day of _____, 200____.

(Notary Public)

My commission expires:

(Seal)

MERCHANT'S COMPLAINT FORM

BCU CASE # _____

CHECK # _____ AMOUNT \$ _____

Name of person who signed check: _____

Social Security # of person who signed check: _____

County where check was received: Lincoln _____ Pike _____ Walthall _____

Was the check to pay any type of pre-existing debt? _____

Additional comments: _____

READ CAREFULLY! The information above is correct according to the best of my knowledge. **This check was not postdated nor did I agree to hold it for any reason; the check writer is 18 years of age or older; I have not collected partial payment; and I understand that once I turn it over to the Bad Check Unit, if I collect the check myself I must pay a \$30 withdrawal fee and call the Bad Check Unit to withdraw the complaint.**

I authorize the district attorney's office to institute collection proceedings under Section 97-19-55 of the Mississippi Code of 1972 and further authorize them to sign a criminal affidavit on my behalf based on the information given and Section 9-11-27 of the Mississippi Code of 1972.

SIGNATURE: _____

PRINT YOUR NAME HERE: _____

NAME AND ADDRESS TO WHICH RESTITUTION SHOULD BE MAILED:

Name of Victim: _____

Victim Address: _____

Contact Person: _____ **Telephone Number:** _____

Complaint Date: _____

FOR CHECKS STAMPED "INSUFFICIENT FUNDS" *the first time through the bank* the affidavit of service by mailing and a copy of the statutory notice MUST BE ATTACHED TO THIS COMPLAINT. For those that are stamped "ACCOUNT CLOSED" *the first time through the bank*, service by mailing is not mandatory.

ATTACH CHECK HERE—ONE CHECK PER COMPLAINT

RETURN TO:
DISTRICT ATTORNEY'S BAD CHECK UNIT
223 WEST BAY STREET
MAGNOLIA, MS 39652