



City of Lancaster, Ohio
Office of the

Law Director and City Prosecutor
Randall T. Ullom

Policy No. LDO-3

REVISED BAD CHECK POLICY

This packet has been prepared to assist merchants and the public in understanding the necessary steps to follow in bad check cases.

October 31, 2013

Please note: All checks *must* have a Drivers License Number or State ID number for criminal prosecution to occur. If this information is not present - the case will be treated as civil in nature.

Law Director & City Prosecutor

City of Lancaster
Bad Check Policy

I. Information to gather on all checks:

- A. Merchants must collect on all checks received the following information from a State ID or Drivers License.
 - 1. Drivers license number or State ID number
- B. All merchants should compare picture ID to check writer. Only person whose name appears on check should sign check.

II. To prosecute for writing a bad check under Ohio Revised Code 2913.11, a merchant must meet the following requirements.

- A. Check Amount/Penalty/Contact Person
 - 1. \$1.00 - \$999.99 (M-1) Contact City Law Director's Office
 - 2. \$1,000.00 - \$4,999.99 (F-5) Contact Law Enforcement Agency
 - 3. \$5,000.00 - \$99,999.99 (F-4) Contact Law Enforcement Agency
 - 4. \$100,000.00 plus (F-3) Contact Law Enforcement Agency
- B. Type of Check
 - 1. **Insufficient Funds**
 - a. Use this policy
 - 2. **Closed Account**
 - a. Use this policy
 - 3. **No Account**
 - a. Use this policy
 - 4. **Stop Payment**
 - a. Civil matter - Contact Fairfield County Municipal Court Small Claims Division or with your own civil attorney
 - 5. **Payroll Check**
 - a. Civil matter - handled through Fairfield County Municipal Court Small Claims Division or with your own civil attorney.
 - 6. **Two Party Check**
 - a. Civil matter - handled through Fairfield County Municipal Court Small Claims Division or with your own civil attorney
- C. Steps Prior to Prosecution
 - 1. No account - file a police report and bring the check and police report to the Prosecutors Office.
 - 2. Insufficient Funds/Closed Account
 - a. Send a 10 day Notice of Dishonor by **certified/restricted** mail to check writer
 - 1. See Exhibit A, attached for a draft Notice of Dishonor
 - 2. The check writer must personally sign for the Notice of Dishonor
 - 3. You must print or type "Address Service Requested" on the Notice of Dishonor mailing envelope so that the U.S. Postal Service will automatically provide you with any forwarding address on file for the check writer in the event he/she moved.
 - 4. If the Notice of Dishonor is returned to you with a new address for the check writer, then re-send the Notice of Dishonor by certified/registered mail to the new address provided.
 - b. Once a case is filed, the case **will not** be dropped *even when payment is made. **Do not advise check writer that the case can be dismissed.***

- c. If you are unable to get service of the Notice of Dishonor, you may attempt personal service. Personal service consists of handing the notice to the check writer. Please document:
 1. Who served notice of dishonor (must be served personally on check writer).
 2. When and where Notice of Dishonor was served.
 3. Keep copy of Notice of Dishonor.
 - d. Service of Notice Impossible
 1. Insufficient Funds Check
 - a. If you are unable to serve the Notice of Dishonor, prosecution is **not** possible.
 - b. You may contact a process server to attempt service of the Notice of Dishonor (you may check with our office for a list of process servers).
 2. Closed Account Check
 - a. If you are unable to serve the Notice of Dishonor, the Prosecutor will examine for the possibility of prosecution. It is the ultimate decision of the Law Director & City Prosecutor's Office on whether to proceed. Preference will be given to cases where service was obtained on Notice of Dishonor.
 - e. Successful Notice Served
 1. Prepare the following documents for the Prosecutor's Office:
 - a. Actual Check
 - b. Notice of Dishonor (Exhibit A)
 - c. Proof of Service
 - d. Completed Bad Check Affidavit (Exhibit B)
 2. Bring information listed above to Law Director's Office during office hours Monday- Friday 8:00 a.m. - 4:30 p.m.
 - a. If the office is closed, please come back during office hours.
 - f. Criminal Prosecution
 1. You will be required to attend pretrial and trial dates.
 2. If check writer pleads guilty, they will be ordered to repay you as a term of probation. For questions about repayment, contact Municipal Court Probation Department at 687-6686.
3. Please note, for larger checks of \$250.00 or more, we will work with you on problems that you may have and attempt to assist in putting together a successful criminal case. However, the decision to prosecute is ultimately the determination of the Law Director & City Prosecutor's Office.

III. Alternative collection methods (in cases where there isn't prosecution)

- A. File in small claims court.
- B. Turn over to collection agency.

IV. The Law Director's Office maintains a list of local process servers if you are unable to locate one. The Law Director makes no representation about these individuals, only that they are in business to serve process and have contacted the Law Director with this information.

Exhibit A

NOTICE OF DISHONOR

(SECTION 2913.11 OHIO REVISED CODE)

Date: _____

NAME

ADDRESS

RE: CHECK NO: _____

DATED: _____

PAYABLE TO: _____

DRAWN BY: _____

AMOUNT: _____

Dear: _____,

You are hereby given official notice of dishonor of Check No: _____, dated _____, 20____,
made payable to _____, in the amount of _____,
dishonored by the _____ Bank, on _____,
20____.

Your failure to make good this check or otherwise satisfy this instrument within ten (10) days after receiving this official notice of dishonor could be a violation of Section 2913.11 of the Revised Code of the State of Ohio.

If you have any questions concerning the effect of a possible violation of Section 2913.11 of the Ohio Revised Code, I suggest you contact your lawyer.

Sincerely yours,

Bad Check Affidavit

A. Complaining Witness Information

1. Store name _____
2. Store address _____
3. Store phone number _____
4. Your name _____
5. Your position _____

B. Check Information

1. Check writer name _____
2. Check writer address _____
3. Check writer social security number and date of birth or drivers license number _____
4. Check writer phone number _____
5. Who can identify check writer _____
6. Check returned as: Insufficient Funds Closed Account Other _____
7. Was a stop payment issued ever? Yes No
8. Was check post dated? Yes No
9. Have you received any money for check? Yes No
10. Did check writer make any admissions of insufficient funds *prior* to return from bank? Yes No

C. Notice of Dishonor

1. Was Notice of Dishonor served? Yes No
2. Method of service (circle and complete a or b)
 - a. Certified Mail & Restricted Delivery
 1. Did check writer sign for letter? Yes No

b. Hand delivery

1. Delivered by _____
2. Accepted by _____
3. Date _____
4. Location _____

D. Contact with check writer

1. Please explain contact with check writer _____

Under the penalties of perjury as provided in Section 2921.11 of the Ohio Revised Code, and under the penalties of falsification under Section 2921.13, I swear that the answers to all the questions on this statement are true to the best of my knowledge.

Sworn to before me and signed in my presence this _____ day of _____, 20__

Clerk Notary Deputy Clerk