

Pinal County Attorney's Office

Bad Check Program Guidebook



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OFFICE OF THE PINAL COUNTY ATTORNEY
Kent Volkmer
Pinal County Attorney

Dear Community Member;

The passing of bad checks is a form of fraud and an offense taken seriously by the Pinal County Attorney's Office. Even the most diligent of merchants can be the victim of a bad check writer. The Pinal County Attorney's Office Bad Check Program is funded in part by fees paid by the bad check writer and is FREE to victims and merchants.

This program is provided to help reimburse any individuals or merchants for the losses they incur as the result of receiving bad checks. This *Guidebook* contains all the information you will need to participate in this free service.

I hope you find this resource useful. If you should have any questions or concerns, or simply want to forward a suggestion to improve the services we provide to our community, please don't hesitate to contact us.

Sincerely,

Kent Volkmer
Pinal County Attorney

INTRODUCTION

This *Guidebook* is intended to provide you with information on ways to avoid receiving bad checks. In the event you do become a victim, it is also intended to help you participate in the Pinal County Attorney's Office Bad Check Program to recover your loss. Please read the *Guidebook* completely and follow all the steps to avoid delays in processing your case.

If you receive a bad check, you are first required to notify the check writer that they must reimburse you for the entire amount within the specified time (17 days for checks written for less than \$5,000.00 OR 65 days for checks written for \$5,000.00 or more.) If you do not receive full payment within that time frame, the check writer may be prosecuted.

Our desire is to reduce the occurrence of bad check writing in Pinal County and to reduce the losses incurred by victims of this criminal offense.

PROTECT YOURSELF FROM BAD CHECK WRITERS

The first thing you should do when you receive a check is put it through a simple screening process. Try to recognize a bad check before you accept it. Learn the preventive measures outlined below and teach them to your employees. These measures 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 the check number is handwritten or lower than 125, exercise caution.
- Checks must be dated the day you receive them. Post-dated checks may not be prosecuted by this office; you accept 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 be 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 picture I.D. In the event prosecution is needed, the person accepting the check may have to identify the check writer in court. Comparing the writer's appearance to their state-issued driver's license or identification card is *strongly* recommended.
- Make sure that the numeric dollar amount matches the written dollar amount. A check for \$16.25 should say in words: "Sixteen and twenty-five/100 dollars" or "Sixteen and 25/100 dollars."
- Banks will not accept checks with discrepancies. Verify to see if any words or numerals on the check have been altered. Look for different handwriting, two or more ink colors, or any other suspicious differences. If you notice discrepancies, you should reject the check and request another form of payment.
- 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.
- DO NOT permit the check writer to document his/her Driver's License number or other information on the check. Ask for picture I.D. and document the information 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 Pinal County Attorney's Office 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 Pinal County Attorney's Office Bad Check Program to obtain a copy of the driver's license. The copy of the license provides a photo, handwriting sample, and description of the check writer, which 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 I.D. card with a signature is your best defense against forgery.
- Compare the name, address, and signature on the license with those on the check. Also, compare the photo on the I.D. with the person writing the check. Check the license for the expiration date. DO NOT accept checks from people who provide an expired form of identification.
- Secondary identification may also help you identify the check writer. Examples of secondary identification include military or business I.D.'s (preferably with a picture.) These are oftentimes helpful in identifying a subject.
- RECORD ALL INFORMATION ON THE FRONT OF THE CHECK. Information recorded on the back of a check may be obscured by the bank's stamp.
- Always record your name, initials, or employee I.D. number as the receiver of the check. The Pinal County Attorney's Office must have a witness to successfully prosecute a criminal case. That witness must be the person who accepted the check. Be certain that the acceptor's identity, including contact information, is provided in the paperwork submitted to our office. Missing or incomplete information may result in the check being returned to you.
- Write the check writer's driver's license number on the front of the check. Record the home address and telephone number unless this information is already printed on the check. If the driver's license shows a different address than the address printed on the check, make a notation on the check of the address listed on the driver's license.

IF YOU HAVE DOUBTS ABOUT A CHECK, DON'T ACCEPT IT

You are not required by law to accept checks. You may lose the sale, but you won't lose the merchandise. Remember, there is no way to determine whether a check is good except by submitting it to the bank for payment. Only through the careful examination of each check and the diligent use of these guidelines can you reasonably assume that a check is good. Your knowledge and use of these techniques are your main deterrent to bad check writers.

WHAT TO DO WHEN YOU RECEIVE A BAD CHECK

Use the information in this section of the *Guidebook* to establish a store policy, and be ready to submit the needed paperwork to the Pinal County Attorney's Office Bad Check Program. You may photocopy the forms (Demand for Payment, Affidavit of Mailing, Crime Report, and Witness Form), located in the Pinal County Attorney's Office Bad Check Program Forms booklet, which is available online: <https://pinalcountyattorney.org/victim-witness/victim-services/bad-checks>

Send Demand for Payment to the Bad Check Issuer

- **There are two Demand for Payment Forms:**

Form A is for checks **less than \$5,000.00** - a Class 1 Misdemeanor

Form B is for checks **\$5,000.00 or more** - a Class 6 Felony

- Prepare the Demand for Payment Notice. You may select the method of delivery, but the law requires that you attempt notice. Notice may be in person or you can mail the notice via certified or registered mail, with return receipt to the person who wrote or passed the check. You may also mail the Demand for Payment Notice via regular mail that is supported by an **Affidavit of Mailing** completed by you. Do **NOT** change the language in the Demand for Payment Notice because it is written with required statutory language.

- The Demand for Payment Notice shall be sent to the issuer at the issuer's address shown on any of the following documents: the check, the records of the bank or other drawee, or the records of the person to whom the check was issued or passed.

- If the check is **less than \$5,000.00**, and the Demand for Payment Notice is hand delivered, wait 12 calendar days before submitting the check to the Pinal County Attorney's Office Bad Check Program. A.R.S. 13-1808 (A) 2. If sent by mail, the law adds 5 days for mailing. Thus, you must wait 17 calendar days from the date of mailing before submitting the check to the Pinal County Attorney's Office Bad Check Program. A.R.S. 13-1808 (F).

- If the check is **\$5000.00 or more**, and the Demand for Payment Notice is hand delivered, you must wait 60 calendar days before submitting the check to the Bad Check Program. A.R.S. 13-1807 (E). If sent by mail, the law adds 5 days for mailing. Thus, you must wait 65 calendar days from the date of mailing before submitting the check to the Pinal County Attorney's Office Bad Check Program. Issuing a bad check in the amount of \$5000.00 or more is a Class 6 Felony. You are entitled to demand the full amount of the check, including accrued interest at the rate of 12% per year and any other applicable fees. A.R.S. 13-1807 (E).

- If you mail the Demand for Payment Notice, you should print or type "Address Correction Requested" on the envelope, in the event the addressee has moved.

- If an individual offers to pay you for their bad checks within the statutory time period following receipt of the Demand for Payment Notice, accept only the following methods of payment: cash, money order, or cashier's check. You may also collect a \$25.00 fee for reasonable costs. **DO NOT AT ANY TIME ACCEPT PARTIAL PAYMENT FROM THE CHECK WRITER. DO NOT** return the bad check to the check writer until you have received payment in full.

Prepare the Witness Form and Crime Report

Complete those blanks for which you have immediate information. The remaining blanks may be completed later, but prior to the time you send the check(s) and other documents to the Pinal County Attorney's Office Bad Check Program. The witness who received the bad check will likely be a necessary witness for any trial that may occur in the matter.

**PINAL COUNTY ATTORNEY'S OFFICE
BAD CHECK PROGRAM CRIME REPORT**

BAD CHECK PROGRAM ADDRESS:
PO Box #887
Florence, AZ 85132

BAD CHECK PROGRAM CONTACT:
Diversion/Bad Check (520) 866-5593
Fax: (520) 866-5621

Once a check is submitted to the program:
Avoid contact with the check writer. Do not accept any payments from the Check Writer. Have the Check Writer contact PINAL COUNTY ATTORNEY'S OFFICE BAD CHECK PROGRAM for payment arrangements.

The following types of checks are ineligible for the program:

- *Two-party checks
- *Fraudulent or stamped/lost/stolen/forged
- *Payroll or credit card checks
- *Fraud (pre dated or altered checks)
- *Checks you agreed to hold before depositing
- *Checks passed outside of Pinal County
- *Checks which are repayment of loans or civil contract agreements

Step 1: Confirm Eligibility

Victim Information - Business Victim? Go to step #3

Victim Name: _____ Phone: _____
Mailing Address: _____
City: _____ State: _____ Zip code: _____
Email (Required): _____

Step 2: Victim Information

Legal Business Name: _____ **Store #:** _____
DBA (if applicable): _____
Business Mailing Address: _____
Physical Address (if different): _____
Phone: _____ Fax: _____
Type of Business: _____ Business owners name: _____
Email (Required): _____
Contact Person: _____ Title: _____
Their Phone: _____ Their Email: _____

Step 3: Business Victim Information

RESTITUTION CHECKS: Payable to: _____
Mailing Address: _____

Check #	Date Passed	\$ Amount	Name of person Accepting Check	Can person ID Check writer?
_____	_____	_____	_____ (If no longer employed, please list employer)	YES NO
_____	_____	_____	_____	YES NO

Step 4: Check Information

Address where check was accepted (if different than step 2 or 3): _____
City: _____ State: _____ Zip code: _____

Check Writers Name: _____ **Driver's License # / Other ID #:** _____
Address: _____ **State:** _____
City: _____ **State:** _____ **Zip code:** _____
Phone: _____ **Hair Color:** _____ **Date of Birth:** _____
Physical Description and/or other names used, family/aliases, etc.: _____ **Social Security #:** _____
_____ **Car License #:** _____
_____ **Other:** _____

Step 5: Check Writer Information

Step 6: Victim Verification

- * I will not accept direct payment from the check writer after filing this report with the program. Please refer check writer to (520) 866-5593.
- * I understand that the check writer has the option to dispute this claim in writing with the Pinal County Attorney's Office Bad Check Program.
- * If this crime report is not completely filed out it may prevent or delay this case from moving forward for prosecution review.
- * I attest that I have sent a demand letter to the check writer via U.S. Certified including return receipt or by regular mail, with affidavit of mailing, and after (15 days for Class 1 misdemeanor - \$600.00 or less, or 30 days for Class 2 felony - \$5000.00 or more) days it remains unpaid.
- * I have reviewed the filing instructions and I hereby affirm and attest under penalty of perjury that all information provided on this Bad Check Program requires to be the best of my knowledge.

Signature of Person Filing (Required) _____ Print name of Person Filing _____ Date _____

ATTACH ORIGINAL OR BANK-GENERATED SUBSTITUTE CHECK HERE

MAKE SURE TO INCLUDE COPIES OF THE FOLLOWING ITEMS:

- DEMAND LETTER
- PROOF OF MAILING DEMAND LETTER
- AFFIDAVIT OF MAILING DEMAND LETTER IF MAILED REGULAR FIRST CLASS
- WITNESS FORM

MAIL TO: PINAL COUNTY ATTORNEY'S OFFICE, BAD CHECK PROGRAM
PO BOX 887
FLORENCE, AZ 85132

Two page crime report found in the forms guidebook.



**PINAL COUNTY ATTORNEY'S OFFICE
BAD CHECK PROGRAM
WITNESS FORM**

MAIL ORDER PROVIDED ADDRESS:
PO Box 887
Florence, AZ 85132

MAIL ORDER PROVIDED CONTACT:
Diversion/Bad Check (520) 866-5593
Fax: (520) 866-5621

INSTRUCTIONS: Please read the Affidavit before completing this form. Incomplete witness statements may be returned to you. **PLEASE PRINT OR TYPE CLEARLY.**
Print all information (including zip code) legibly.

Please answer all the following questions:

Q	Yes	No	Yes	No
1. Was this check prepared in a financial institution or other place where the check is cashed?				
2. Was the check post-dated at the time of acceptance?				
3. Does the check contain a post-dated or stop-payment check?				
4. Was the check received in partial payment towards a grand total for goods or services?				
5. Was the check received in full or as down payment on a purchase?				
6. Does the check contain a stop-payment or other restriction on cashing?				
7. Have you contacted a law enforcement officer to investigate this check?				
8. Is the check dated more than two (2) years ago?				
9. Was the check cashed at a bank or other financial institution?				

A "YES" answer to any of the above questions indicates this is a Civil Matter, ineligible for this program. All "NO" answers should be printed with answering all questions on this form.

Check Number: _____ **Amount \$:** _____ **Date Issued:** _____
Address where check was presented/cashed: _____
How was check received? In person Cash Drop Box OOD for purchase USPS/Rush
Date Demand for Payment Notice sent: _____
Demanded by Payment Notice sent by: Certified mail First Class Mail® Personal Delivery
*If sent by First Class Mail, also include an affidavit of mailing.

WITNESSES/WITNESS who accepted check: _____
Address: _____ **City:** _____ **State:** _____ **Zip code:** _____
Work Phone: _____ **Fax:** _____
Can you verify this as the check you accepted? YES NO **Reason of () (Deposit Stamp on back) () Witness Initials**
 Witness Reporting () Other
Did you record Down's License # or Arizona ID on the check? YES NO
Is it your normal practice to compare Photo ID with the check when cashing or depositing? YES NO

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

Witness Signature: _____ **Print Name:** _____ **Date:** _____
If witness no longer employed, Authorized Agent name: _____
Authorized Agent Signature: _____ **Date:** _____

Witness form to be filled out and signed by the person who received the check



Don't forget the affidavit form if demand letter was mailed regular mail and NOT return receipt or registered mail. This form needs to be notarized



**AFFIDAVIT OF MAILING
THE DEMAND FOR PAYMENT**

NOTE: This form must be notarized

Tax Name: _____
Street Address: _____
Street Address Line Two: _____
City, State, Zip: _____

STATE OF ARIZONA)
County of Pinal) **AFFIDAVIT OF MAILING**

I, _____ being first duly sworn, depose and state that I _____
mailed, by regular first class mail, on the _____ day of _____, 20____, a _____
Demand for Payment Notice, Form _____ addressed as follows: _____
1 of 2

Check Writer Name: _____
Street Address: _____
Street Address Line Two: _____
City, State, Zip: _____

Dated this _____ day of _____, 20____,
Do: _____
De: _____
Witness: _____
(Print Name)
SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

Notary Public: _____ **My Commission Expires:** _____
Substituted by: PCAO Bad Check Program, P.O. Box 887, Florence, AZ 85132. Phone: (520) 866-5593 Fax: (520) 866-5621

SUBMITTING A CHECK TO THE PINAL COUNTY ATTORNEY'S OFFICE BAD CHECK PROGRAM

- If the check writer does not respond to the Demand for Payment Notice, the check may then be submitted to the Pinal County Attorney's Office Bad Check Program. In doing so, please be certain that all items on the Witness Form and Crime Report are completed. If you have a more current address for the bad check writer than the address printed on the check, include that information.
- Place the following items in a large mailing envelope addressed to:

Pinal County Attorney's Office
Bad Check Program
P.O. Box 887
Florence, AZ. 85132

- Original check(s) or certified bank copy or original documentation returned to you by the bank
- A Witness Form and Crime Report for *each* check
- Copy of the Demand For Payment Notice for *each* check
- Affidavit of Mailing if the Demand for Payment Notice was sent by mail OR an unopened envelope containing the Demand for Payment Notice if the mail was returned.

INFORMATION CONCERNING CASE STATUS

Persons requesting information or status on a case that has been submitted to the Pinal County Attorney's Office Bad Check Program should wait at least 60 days before making an inquiry. You may either call our office or make a written inquiry. If inquiry is made in writing, please include your name and daytime phone number and the name of the bad check writer.

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

We collect the face value of each check, plus a \$25.00 returned check fee for the victim for each check submitted, authorized under A.R.S. § 44-6852.

Restitution Payments

When a bad check writer makes a payment to the Pinal County Attorney's Office Bad Check Program, it is recorded and deposited into an account. Restitution checks will be issued to victims the month after a payment has been received. Along with your payment, you will receive a computer printout containing the Bad Check Program I.D. number, the name of the bad check writer, the bad check number, and the date/amount of the check.

Original Checks Cannot be Returned Once Collection Begins

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

If the check writer contact you after prosecution has begun, and asks to pay for the check(s), you should refer him/her to the Pinal County Attorney's 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 our office on your behalf.

MATTERS NOT HANDLED BY THE PINAL COUNTY ATTORNEY'S OFFICE BAD CHECK PROGRAM

Bad checks that are included in a civil action are not handled by the Pinal County Attorney's office Bad Check Program. For example, a check that is issued as payment toward a loan (informal or formal) or extension of credit, or a check that is issued as partial payment toward a grand total that is due for goods or services. Also, if you have already obtained a civil judgment against a check writer that includes the bad check, it cannot be submitted to this office.

The checks listed below are not accepted by the Bad Check Program, however civil remedies may be available. For further information regarding civil action, check the following link: <http://www.pinalcountyaz.gov/Judicial/Justice/Pages/SmallClaims.aspx>.

- "Stop Payment" check(s).
- Checks not written or passed within Pinal County: these may be eligible for prosecution in the county in which the check was passed.
- Checks that are altered or suspected of being forgeries: these must be reported to the law enforcement agency in the jurisdiction where the check was passed.
- Checks less than \$5,000 and dated more than one (1) year ago.
- Stale-dated checks. Checks older than 180 days past the date of issue.
- Two party checks.
- Post-dated 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 a credit institution without notice to the person.
- Credit card slips or electronic checks.
- Checks issued by a debtor to a credit adjustment company or a collection agency.
- Checks redeemed by a guarantor, i.e. assigned by a payee to a guarantor.

WHAT BECOMES OF THE BAD CHECK WRITER

As soon as the Pinal County Attorney's Bad Check Program receives the completed packet with the check(s), the check writer's name is entered into the Pinal County Attorney's Office Bad Check Program database. A decision is made as to whether the person will be offered the opportunity to enter into Diversion and pay restitution, or whether the matter will be referred immediately for prosecution. If the check writer has no prior criminal history, he/she will be given the opportunity to enter into Diversion, including payment of restitution and statutory fees.

For those check writers who do not respond to the request to pay full restitution, criminal charges are possible. A check writer who fails to respond risks arrest, time in jail, and possible conviction, which would result in paying full restitution and the statutory fines and fees. In addition, after conviction, he/she could have their income tax refund intercepted, restitution liens filed, and wages garnished.

The filing of charges against a check writer depends on whether sufficient evidence exists to charge the person with a criminal offense. You will be notified if our office commences prosecution.

If charges are filed and the check writer enters a plea of not guilty, a trial date will be set. The recipient of the check, and any witnesses that are needed will be subpoenaed to appear at the time of the trial. It is your responsibility to keep our office up to date with your most current contact information. If restitution is paid prior or subsequent to a trial, funds will be disbursed through the Pinal County Attorney's Office Bad Check Program, as indicated under the "Restitution Payments" section outlined in the *Guidebook*.