

## Fayette County Bad Check Procedure

**To: Business Owners and other interested parties**

Subject: Procedure for filing Theft complaints for bad checks (NSF) non-sufficient funds, no account or closed accounts

Individuals and businesses should file their criminal complaint (s) directly with law enforcement. You should file the complaint according to which town the check was drawn/accepted:

### LOCATION TO FILE COMPLAINT

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Oelwein	Oelwein Police Department 501 Rock Island Road Oelwein, IA 50662	(319) 283-4311
West Union	West Union Police Department 612 Hwy 150 South West Union, IA 52175	(563) 422-3535
Fayette	Fayette Police Department City Hall 11 South Main Street Fayette, IA 52141	(563) 425-3500
Rural locations or all other cities in Fayette County	Fayette County Sheriff's Office 220 N. Industrial Pkwy. West Union, IA 52175	(563) 422-6067

Complaint forms and check information sheets are available at all of the above locations. These complaints should be filed in person at the appropriate office during their normal business hours, Monday through Friday. You may fill out the forms ahead of time before bringing your complaint to law enforcement.

As in the past you should remember the following:

- 1) The 10-day notification should be served (Certified restricted letter or by law enforcement), prior to filing, if applicable.
- 2) The original check should be submitted to law enforcement.
- 3) Complete the check information sheet for all complaints.

# CERTIFIED NOTICE

To: \_\_\_\_\_  
NAME

Date: \_\_\_\_\_

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE

Check(s) dated: \_\_\_\_\_ in the amount(s) of \_\_\_\_\_ drawn on  
(name & address of bank) \_\_\_\_\_  
made payable to \_\_\_\_\_  
bearing the signature of \_\_\_\_\_  
has been refused payment because \_\_\_\_\_

Check(s) total: \$ \_\_\_\_\_

Check expense: \$ \_\_\_\_\_

Certification: \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

\_\_\_\_\_  
NAME OF PLAINTIFF

\_\_\_\_\_  
ADDRESS OF PLAINTIFF

\_\_\_\_\_  
PHONE FOR PLAINTIFF

## **IOWA LAW**

A person commits theft when the person makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property, the use of property, including rental property or service in exchange for such instrument, if the person knows that such check, share draft, or written order will not be paid when presented.

Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer that from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

Whenever the drawee of such instrument has refund payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

## **PENALTIES**

Exceeding ten thousand dollars is a CLASS C FELONY, punishable by up to TEN YEARS IMPRISONMENT and a fine of at least ONE THOUSAND DOLLARS up to TEN THOUSAND DOLLARS, or both.

Exceeding one thousand five hundred dollars but not exceeding ten thousand dollars is a CLASS D FELONY, punishable by up to FIVE YEARS IMPRISONMENT, and a fine of at least SEVEN HUNDRED FIFTY DOLLARS up to SEVEN THOUSAND FIVE HUNDRED DOLLARS, or both.

Exceeding seven hundred fifty dollars but not exceeding one thousand five hundred dollars is an AGGRAVATED MISDEMEANOR, punishable by up to TWO YEARS IMPRISONMENT and a fine of at least FIVE HUNDRED DOLLARS up to FIVE THOUSAND DOLLARS, or both.

Exceeding three hundred dollars but not exceeding seven hundred fifty dollars is a SERIOUS MISDEMEANOR, punishable by up to ONE YEAR IMPRISONMENT and a fine of at least TWO HUNDRED FIFTY DOLLARS up to ONE THOUSAND DOLLARS, or both.

Not exceeding three hundred dollars is a SIMPLE MISDEMEANOR, punishable by IMPRISONMENT OF UP TO THIRTY DAYS and a fine of at least FIFTY DOLLARS up to FIVE HUNDRED DOLLARS, or both.

DIRECTIONS TO SHERIFF

Fayette County Sheriff's Office - West Union, Iowa

(FOR CIVIL PROCESS)

Court action parties: \_\_\_\_\_ vs. \_\_\_\_\_

Clerk Case #: \_\_\_\_\_ County court action filed in: \_\_\_\_\_

Person / Company to be served: \_\_\_\_\_

Full name of party being served: \_\_\_\_\_

Address to serve at: \_\_\_\_\_

City, State, Zip code: \_\_\_\_\_

Cell Phone number: \_\_\_\_\_ Any other phone number: \_\_\_\_\_

If normally not at above address, may be found at:  
\_\_\_\_\_

Employed at: \_\_\_\_\_

Hours normally work: \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_ DOB: \_\_\_\_\_ SSN: \_\_\_\_\_

Driver's License #: \_\_\_\_\_ Vehicle Driven: \_\_\_\_\_

License Plate #: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eyes: \_\_\_\_\_

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Name of person / company requesting service: \_\_\_\_\_

(refund, if any, will be mailed to the address that you provide to us)

Address: \_\_\_\_\_

City, State, Zip code: \_\_\_\_\_

Phone number you can be reached at: \_\_\_\_\_

Good Email to get a hold of you at: \_\_\_\_\_

**Advance Fee amount:**

Writs / Garnishments \$100.00

Civil \$100.00

FEES PAYABLE BY CASH OR MONEY ORDER ONLY

Money order payable to: Fayette County Sheriff's Office

CHECK INFORMATION SHEET (Please type or print)

Check one: Insufficient funds \_\_\_\_\_; or No account \_\_\_\_\_

Date of check \_\_\_\_\_

Payable to \_\_\_\_\_  
(Name and address of victim)

Signed by: \_\_\_\_\_

Whose address is: \_\_\_\_\_

Bank check was drawn on: \_\_\_\_\_

Who waited on the customer? \_\_\_\_\_

CAN HE/SHE IDENTIFY THE PERSON WHO PASSED THE CHECK? \_\_\_\_\_

Who accepted the check? \_\_\_\_\_

CAN HE/SHE IDENTIFY THE PERSON WHO PASSED THE CHECK? \_\_\_\_\_

Was the person who passed the check required to produce any form of identification? \_\_\_\_\_

If yes, what type of identification was required? (I.e. driver's license, photo I.D., credit card, etc.) \_\_\_\_\_

Date of transaction: \_\_\_\_\_

Check whichever single answer applies:

\_\_\_\_\_ (1) The check writer received goods or services at the time the check was passed. if you checked this answer, what goods or services did the person receive? \_\_\_\_\_

\_\_\_\_\_ (2) The check was a payment on an open account. (i.e. for goods or services previously received.)

\_\_\_\_\_ (3) A combination of 1 and 2. Please explain. \_\_\_\_\_

Did you or a representative of your business agree to hold this check? \_\_\_\_\_

Have you or a representative of your business agreed to hold a check for this person in the past? \_\_\_\_\_

Did you have knowledge at the time the check was presented that it was not good? \_\_\_\_\_

Have you accepted a partial restitution payment on this check? \_\_\_\_\_

If yes, this case cannot be prosecuted as a theft by check case. You may proceed with a small claim action if you wish to do so.

Did the check writer (or someone on his or her behalf) offer to make a partial payment or to set up a payment plan on this check? \_\_\_\_\_ If yes, please explain what offer was made: \_\_\_\_\_

Other witnesses: \_\_\_\_\_

Can they identify the person who passed the check: \_\_\_\_\_

Who will testify at trial? \_\_\_\_\_

Business telephone and business address of witnesses who will testify: \_\_\_\_\_

No criminal charges will be filed on a non-sufficient funds check unless a 10 day notice was sent by certified mail or personally served on the check writer.

If a ten day notice was sent by certified mail, please provide the following information:

Date of return receipt: \_\_\_\_\_

Who signed the receipt: \_\_\_\_\_

If the option of having the ten day notice served upon the check writer was used, please provide the following information:

The name and address of the person who served the ten day notice: \_\_\_\_\_

The date of personal service of ten day notice: \_\_\_\_\_

If you are filing this Complaint more than six months after the check was presented to you, please explain what efforts you have made to collect this check (such as use of a collection agency), and please explain why you have waited this long to file a Complaint: \_\_\_\_\_

Person who filed the Complaint with law enforcement: \_\_\_\_\_

Title, if any: \_\_\_\_\_

Name of business: \_\_\_\_\_

Mailing address (including box number): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Restitution information:	Amount of check:	\$ _____	
	Your return check fees (if any):	\$ _____	
	Cost of certified letter:	\$ _____	or
	Cost of obtaining personal service:	\$ _____	
	<b>Total:</b>	<b>\$ _____</b>	

DELIVER THIS FORM TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, ALONG WITH THE ORIGINAL CHECK, AND TEN DAY NOTICE AND MAILING RECEIPTS OR PROOF OF