

SACO POLICE DEPARTMENT

Bad Check Packet Informational Page

Bad Checks

If you've received a check from an individual and it was returned due to "insufficient funds" or "closed account," there are several steps that can be taken to recover losses.

Not all bad checks are criminal in nature and before the police department can begin to consider criminal prosecution, there is a lot of preliminary work that has to be done.

In most cases, the desired outcome of the aggrieved party is to receive just compensation for the lost transaction. With this in mind, personal efforts in mitigating the issue may be the most successful and expeditious way of bringing the issue to a successful closure. An apparent civil transaction may turn criminal and these efforts will assist in showing criminal intent and pave the way to successful prosecution.

Several steps need to be taken prior to seeking law enforcement action.

- Contact the writer and seek resolution in an agreed upon time frame. Record dates, times, number of contacts, agreements, etc. that will reflect on the writer's awareness, intents, acknowledgments, and failures.
- Record the individual's name that received the check and acquire a statement on the particulars of the transaction as soon as possible to preserve as evidence. This will become an important tool in assisting with prosecution.
- If contact cannot be made or the writer refuses to cooperate, a certified letter must be sent to the writer with "return receipt" being requested from the postal delivery person. Please see the "Notice of Dishonor" sample letter attached.
- If this fails to resolve the issue, small claims court may be considered to file a civil suit. It can be quite inexpensive and often involves less time than criminal prosecution. Information on filing such a suit can be obtained in the Biddeford District Court with the "civil clerk," located at 25 Adams Street near the Biddeford City Hall.
- Upon receiving notice from the bank that the instrument is not being honored, a complaint must be filed with the Saco Police Department within three (3) months (unless sufficient extenuating circumstances exist) to be accepted for prosecution.

If you desire to file criminal charges, copies of all the above must be submitted with the law enforcement agency having jurisdiction over the location where the transaction took place. Please see the "Bad Check Response Report & Checklist" attached.

Your commitment to appear in court is essential to proceed with criminal prosecution. If an employee received the check, their availability and willingness to appear in court will also be required.

In cases of fraud as evidenced by identity concealment, or misrepresentation, seek guidance from your local law enforcement agency.

Businesses can avoid the time-consuming procedures above by instituting a strict check cashing policy.

SACO POLICE DEPARTMENT

Bad Check Packet Bad Check Response Report & Checklist

Your name: _____ Phone#: _____

Address: _____

Business name: _____ Business Phone#: _____

Business address: _____

Name of person having received the check: _____

Address: _____ Phone#: _____

Type of instrument dishonored: _____

Personal check Business check Other

Who did you receive the instrument from? _____

Drawer (signer) An endorser Other

What was the transaction for? _____

Provide the following information if known about the drawer:

Name: _____ Date of birth: _____ Phone#: _____

Current address: _____

Employer: _____ Employer phone #: _____

Notice of Dishonor sent (required)? Yes No

Include copy of letter and return receipt. If not, include explanation in statement.

Personal contact made with drawer? Yes No

If yes, what were the results? Include date(s), response of the drawer, and any other incriminating information in statement form.

A copy (both sides of the instrument in question), must be presented upon complaint along with bank statement of dishonor.

A written statement from the individual accepting the instrument providing pertinent information such as type of I.D. shown, signed in the presence of, description of individual presenting, statements made, and any other pertinent information that will help in locating and prosecuting the individual should be included when filing a complaint.

SACO POLICE DEPARTMENT

Bad Check Packet

“Notice of Dishonor”

SAMPLE LETTER

Your Name
Your Street Address
City, State, & ZIP Code

Date

Addressee
Street Address
City, State, & ZIP Code

Dear Mr./Ms. (Addressee),

This is to advise you that check # (enter check#), issued by you and dated (enter date), drawn on (name of the bank), and made payable to (your name or business name) in the amount of \$ (amount drawn), has been dishonored for (the reason the bank provides, i.e. lack of funds).

This letter is notice of dishonor pursuant to MRSA Title 17A , Sec. 708. If payment is not received within ten (10) days of receipt of this notice, appropriate criminal proceedings will be sought.

Sincerely,

Your Name