



ANDREW H. WARREN
State Attorney, 13th Judicial Circuit

WORTHLESS CHECK UNIT
419 N. Pierce Street
Tampa, Florida 33602
(813) 272-6472

REQUIREMENTS FOR FILING A WORTHLESS CHECK AFFIDAVIT

1. The check must have been given in, or mailed from, Hillsborough County, Florida.
2. The check cannot be post-dated.
3. If you are the person taking the check and were asked by the writer of the check to hold or delay depositing the check for even a brief period or were given any reason to believe that the check might not be honored, then this will not be a worthless check under Florida Law. You should contact an attorney or the Clerk of the Circuit Court's Small Claims Court at 276-8100, to file a civil suit.
4. When a check bounces, the bank must either stamp on the check or attach a flyer to it stating the reason for refusal to pay.
5. The person who received the check from the defendant must be able to appear in Court to positively identify the person who wrote the check. They must be able to identify the writer of the check in at least **one** of the following three ways:
 - THE DRIVER'S LICENSE NUMBER OR STATE IDENTIFICATION NUMBER, **SPECIFYING THE STATE OF ISSUANCE**, HAS BEEN WRITTEN ON THE CHECK.
 - THE PERSON ACCEPTING THE CHECK HAS OBTAINED THE FOLLOWING IDENTIFYING INFORMATION FROM THE WRITER OF THE CHECK:
 - ▶ THE FULL NAME OF THE WRITER OF THE CHECK
 - ▶ ADDRESS
 - ▶ PHONE NUMBER
 - ▶ BUSINESS PHONE NUMBER
 - ▶ DATE OF BIRTH
 - ▶ RACE
 - ▶ HEIGHT
 - ▶ GENDER

ALL REQUIRED INFORMATION MUST EITHER BE RECORDED ON THE CHECK OR A CHECK CASHING CARD NUMBER MAY BE PLACED ON THE CHECK PROVIDED THAT THE BUSINESS ACCEPTING THE CHECK HAS ALL THE REQUIRED INFORMATION ON FILE AND THE INFORMATION WAS PLACED ON FILE WITH THE BUSINESS PRIOR TO THE BUSINESS ISSUING THE CHECK CASHING CARD.

- THE TAKER OF THE CHECK CAN PERSONALLY IDENTIFY THE CHECK WRITER.
6. In order to establish the identity of a person sending a check by mail, you must present the original contract or request for services for which the check was rendered, signed by the same person who signed the worthless check.
 7. The party accepting the check should witness the signature of the person writing the check and should initial the check.
 8. Prior to initiating prosecution, the person who receives the worthless check must send a notice letter, **Certified Mail, Return Receipt Requested** or **First Class Mail**. The notice letter must contain the following information:

“You are hereby notified that a check, numbered _____, issued by you on _____ (date) and payable to _____ has been dishonored. Pursuant to Florida Law, you have 15 days from the date of this notice to tender payment of the full amount of such check plus a service charge of \$_____, the total amount due being \$_____ and _____ cents. Unless this amount is paid in full within the time specified above, the holder of such check may turn over the dishonored check and all other available information relating to this incident to the State Attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50.00, together with the amount of the check, a service charge, court costs, reasonable attorney fees and incurred bank fees, as provided in Section 68.065 FS.”

Service Charges: \$25 if the face value of the check is \$50 or less
\$30 if the face value of the check is greater than \$50 up to \$300
\$40 if the face value is greater than \$300 up to \$800
5% of the face value of the check if the face value is greater than \$800

9. Every Worthless Check Affidavit must include the following:
 - A. The original worthless check or a “Legal Copy” provided by the bank.
 - B. Proof of notice (must be **one of the following**):
 1. The certified mail return receipt, properly stamped by the US Postal Service, and a copy of the notice letter. (If the returned letter is undeliverable, leave the letter in the envelope intact).
 2. The Affidavit of Mailing and a copy of the notice letter if the letter was sent by first class mail.
 - C. The rental lease or agreement (if applicable).
 - D. The contract or copy of invoice (if applicable).

10. The notice letter must be evidenced by an Affidavit of First Class Mailing or by a certified mail return receipt. The notice letter must be mailed to the address on the check or the address given at the time the check was written (if the letter is returned undeliverable, this is sufficient notice under Florida Law).
11. A separate Worthless Check Affidavit is required for each check.
12. For a third-party check, a third-party Worthless Check Affidavit must be submitted.
13. A Worthless Check Affidavit is a request for the State Attorney's Office to commence prosecution. By submitting a worthless check affidavit, the submitting party is indicating an intention to cooperate with the State Attorney's office and, if necessary, testify at deposition and in court.
14. If the State Attorney's Office determines that there is sufficient evidence to file a charge but diversion from prosecution is appropriate, an effort will be made to contact the accused and to obtain restitution.
15. The State Attorney's Office must be able to prove the case beyond a reasonable doubt or the case will not be filed. The determination whether to prosecute is solely within the discretion of the State Attorney's Office.

FREQUENTLY ASKED QUESTIONS

Q: Is a "Stop Payment" or a forged check the same as a worthless check?

A: No. Any claim of theft or fraud based on a "Stop Payment" or forgery must be taken to the law enforcement agency in your jurisdiction.

Q: Does receipt of partial payment on a check prevent prosecution?

A: No. A failure to timely pay the full amount of the check may result in prosecution.

Q: May I pursue civil remedies if I file a Worthless Check Affidavit with the State Attorney's Office?

A: You may pursue any civil remedy at your discretion. If a civil judgment is obtained, please notify the State Attorney's Office and we will determine whether to continue prosecution if charges have been filed.

Q: What should I do if I become aware that a particular person has passed a large number of worthless checks?

A: If you have information indicating a suspect has passed a large number of worthless checks, please provide us with that information at the time you present your Worthless Check Affidavit at the State Attorney's Worthless Check Unit, located at 419 N. Pierce Street, Tampa, FL 33602, or call us at (813) 272-6472.

**IF YOU HAVE ANY ADDITIONAL QUESTIONS,
PLEASE CALL US AT (813) 272-6472**