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Office of McHenry County State's Attorney  
**Check Enforcement Program**

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P. O. Box 1059  
Woodstock, IL 60098-1059  
815-334-4103

**Important information  
regarding enforcement of  
bad checks.**

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## Message from your State's Attorney

Each year merchants lose millions of dollars to bad checks. Bad checks affect everyone, pushing the costs of goods higher. As you know, they can be devastating to a business. Make no mistake, unlawfully issuing a bad check is a crime.

To help with the problems of bad checks for local business owners I have created an in-house Check Enforcement Program, designed to assist merchants in recovering losses from bad checks that were written.

The Program is a multi-faceted approach that includes: assistance in recovering money lost to bad checks, pursuit and prosecution of check offenders who refuse to make restitution, programs to reduce the number of bad checks that end up in your business and, finally, education to

help check offenders avoid writing bad checks in the future.

To take advantage of this new program you need only contact us when you have a bad check. There is no charge to you. **We will endeavor to not just recover the check for you, but also a victim's fee** to help offset any fees charged by your bank.

If bad checks are a concern of your business, I encourage you to participate. Read through this brochure to learn how this program can benefit you. Contact us at 815-334-4103 for more information and our assistance. You will receive a packet of information and materials that can reduce the number of bad checks you get and help you with the bad checks that do get through.

I invite you to try the Check Enforcement Program and help my office reduce the effects of this crime.

Sincerely,

*Louis A. Bianchi*

Louis A. Bianchi  
McHenry County State's Attorney

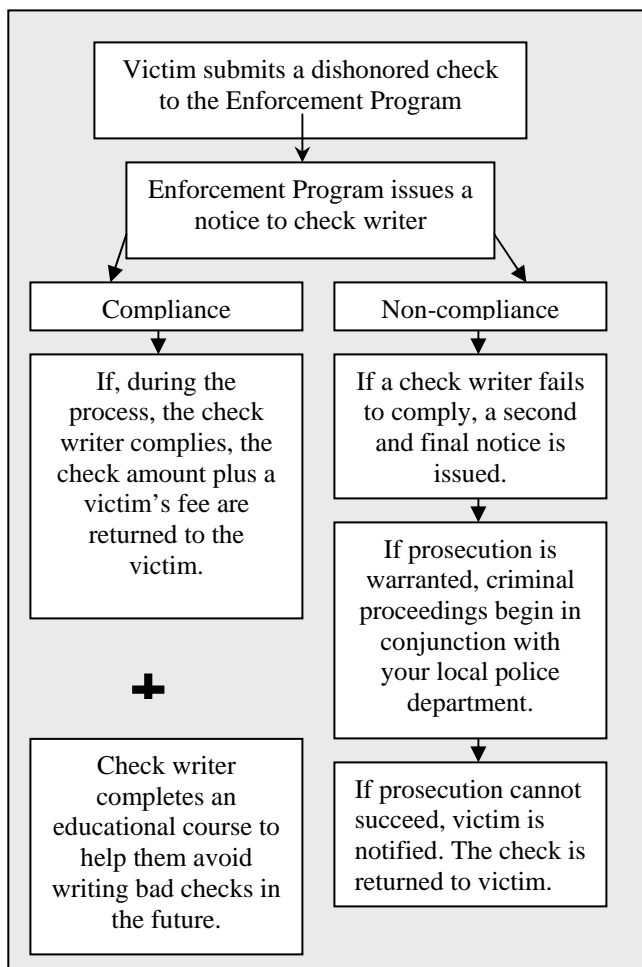


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## How the Check Enforcement Program works

One of the primary goals of the Check Enforcement Program is to return money to the victims. Because this is a diversion program, there is a strong incentive for check writers to comply. For the victim the process is easy:



If the check writer has not made payment and we are unable to prosecute, we will keep this information in an inactive file. If we receive additional information about the check writer in the future the case can be re-activated and further investigation can then take place. However, the check will be returned to you for private collection. At that time, you may wish to turn the matter over to a private collection agency or pursue it through small claims court.

## Fewer bad checks

Another important goal of the Program is fewer bad checks being issued at all. This is achieved in two ways.

First, the Program provides merchants with informational material, signs and other items to help them do a better job with checks in general. This includes forms and guidelines for handling and submitting bad checks to the Program.

Second, all offenders are required to complete an educational course that teaches them how to control their finances. It is proven that these types of courses lower the number of repeat offenders. Fewer repeat offenders mean fewer bad checks.



## Reduced burden to the legal system

Diversion programs such as this dramatically reduce the case load for law enforcement and the courts. This frees up time and resources that can be devoted to more serious or violent crime. The penalty is appropriate to the crime.

But this doesn't mean prosecution is not an option. Offenders who fail to comply with the conditions of the Check Enforcement Program or continue to write bad checks after being in the program are subject to possible criminal prosecution.

Protect your business and your profits by preventing bad checks whenever possible. Rely on the State's Attorney's Office for assistance in fighting this aggravating and expensive problem.

If you are interested in participating, we encourage you to write or call for detailed information on how we can help you stop bad check crime.

**815-334-4103**

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**www.mchenrycosao.com**

## What checks qualify?

Under Illinois law, not all bad checks are prosecutable criminal offenses. Certain other conditions may affect how the victim of a bad check must go about seeking restitution.

If the bad check writer does not make full restitution and meets the other requirements of the Program, he or she may be subject to prosecution.

### A check is eligible for the Program if:

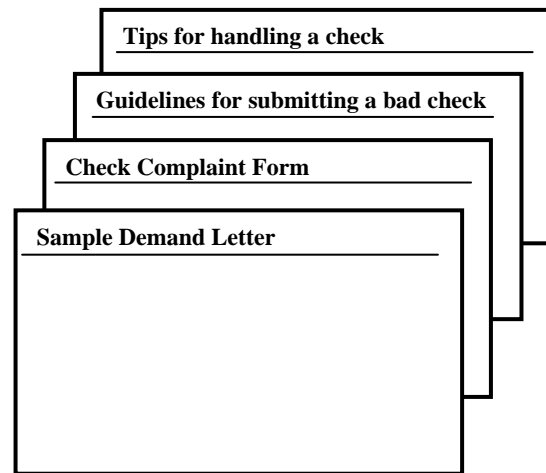
- The check was presented twice, not honored by the bank and was returned marked: **Insufficient Funds**
- The check was not honored by the bank and was returned marked: **Closed Account or No Account.**
- It was received in McHenry County and was presumed “good” at the time of acceptance.
- It is submitted to the Check Enforcement Program within 60 days from the date on the check.

### However, a check is ineligible if:

- It was pre-dated, post-dated or altered.
- It is a two-party check.
- It is a Stop Payment check. (If a performance dispute exists.)
- The check was an Agree-to-Hold check.
- The check was passed outside McHenry County.
- Out-of-state check. (Other than WI.)
- It is a Forged or Counterfeit check. (Submit to police immediately.)
- The check has been submitted to a Collection Agency.

## Get a Bad Check Protection Kit.

The kit includes everything you need to help avoid receiving bad checks and to properly handle the bad checks that do slip through.



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## Merchant Responsibilities

- 1) If a check has been presented twice and is dishonored by the bank because of Insufficient or Non-sufficient Funds, you should first contact the check writer by certified or registered mail, to demand payment of the check (as well as the posted service fee for handling returned checks).
- 2) Check writers must be allowed seven (7) days from the date they receive notice to comply with your request on Insufficient or Non-sufficient funds check. If the check writer fails to comply you may then send the check and any supporting information to the Check Enforcement Program.
- 3) To refer a check to the Program you must complete a Check Complaint Form, attach the original checks or bank-generated substitute checks to the form and forward it within 60 days of the date of the check to the Check Enforcement Program
- 4) Once a check has been turned over to the Program, you cannot accept payment for that check directly from the check writer. Restitution and the associated fees must be made to the Program. Any check writer who wishes to pay a check should be directed to call the Program at 815-334-4103.
- 5) Bad checks may not first be submitted to a collection agency or other similar entities for collection before being submitted to the Program. However, if the Program is unsuccessful, you may wish to pursue the matter through a collection agency, small claims court or civil action.
- 6) Restitution for bad checks received by the Program will be mailed to you within seven days of the date it was received.
- 7) If the check writer does not comply with the requirements of the Program, he or she faces potential prosecution. If this should be the case, you will be contacted about what action you may be required to take as part of that prosecution. However, not all checks qualify for prosecution.
- 8) Once a check has been turned over to the Check Enforcement Program, you may not commence civil legal proceedings in Court without the express written consent of the Check Enforcement Program.
- 9) If the Program is unable to secure restitution and the check does not meet the criteria for prosecution it will be returned. If additional checks from the check writer or subsequent new information is received the check case may be reactivated.
- 10) This agreement may be amended from time-to-time by the McHenry County State's Attorney's Office and such amendments will be effective upon mailing of a notice to the merchant. Failure to abide by this agreement may cause a merchants or individual's participation in the Program to be discontinued.
- 11) This information is used only by the McHenry County State's Attorney's Office or its agents to participate in the McHenry County Check Enforcement Program and is not intended nor shall it be utilized as a substitute, for, legal advice.

**Revised: 09/2007**