

SUMMARY OF STATE BAD CHECK LAWS ©
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COMMERCIAL LAW LEAGUE OF AMERICA



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Commercial Collection Agency Association

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This publication contains a **Table of Bad Check Laws** that summarize various state laws concerning the issuance of bad checks. In addition, the Table provides information on service charges and civil penalties that the holder of a bad check or the courts may impose on the check's issuer. Legal proceedings may be necessary to collect service charges, and are necessary to collect civil penalties.

The **Summary** is intended only as a general guide and in the main addresses' checks presented in payment of business or commercial transactions. When a check is taken in connection with a consumer transaction, it is generally a violation of the **Fair Debt Collection Practices Act** to threaten criminal action without the intent or ability to do so. The **Commercial Law League of America (CLLA)** or the **Commercial Collection Agency Association of the CLLA** does not make any representation as to the accuracy of the contents of this publication. *Any person with a bad check problem should consult legal counsel for full details on the law of a particular state.*

While there are differences among the states as to how bad checks are viewed (whether a misdemeanor or a felony) and the remedies available to holders of the bad check against the drawer, there are several general factors that run through the majority of state laws:

In all states the maker of a check, who tenders a check knowing there is insufficient funds or credit behind the check, may be guilty of a crime and may be subject to civil penalties.

2. In the majority of states the crime is treated as a misdemeanor. In states that make a distinction regarding a felony or misdemeanor, the amount of the check usually determines if the crime is a misdemeanor or a felony. In several states the law provides for fines and or imprisonment, but does not specify if the crime is misdemeanor or felony.

In some states there is a criminal offense only when the bad check is given in exchange for property or for a present consideration. In other states it is a criminal offense to issue a bad check with intent to defraud or with knowledge of insufficient funds.

4. The intent to defraud and knowledge of insufficient funds is required to be present by most states' bad check laws. The intent to defraud is sufficient. It is not necessary for the payee to have actually been defrauded.
5. In most states statutory provisions provide that it is prima facie evidence of insufficient funds (or of intent to defraud) if: (a) the check was not paid by the drawee (bank) on presentation for payment and (b) the drawer did not pay the check within a specified number of days after written notice to the drawer of dishonor of the check. The prescribed numbers of days for the various states are:

Alabama	10	Georgia	10	Maryland	10
Alaska	15	Hawaii	10	Massachusetts	2
Arizona	12	Idaho	10	Michigan	30
Arkansas	10	Illinois	30	Minnesota	5
California	30	Indiana	30	Mississippi	15
Colorado	15	Iowa	30	Missouri	10
Connecticut	30	Kansas	14	Montana	5
Delaware	10	Kentucky	10	Nebraska	10
D. C.	5	Louisiana	15	Nevada	5
Florida	7	Maine	10	New Hampshire	10

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New Jersey	35	Oregon	10	Utah	15
New Mexico	10	Pennsylvania	10	Vermont	10
New York	30	Rhode Island	7	Virginia	30
No. Carolina	30	So. Carolina	30	Washington	15
No. Dakota	10	So. Dakota	30	West Virginia	10
Ohio	30	Tennessee	10	Wisconsin	5
Oklahoma	5	Texas	10	Wyoming	5

6. In many states the criminal provisions regarding bad checks do not apply to post-dated checks. Because post-dated checks are a promise to pay in the future, they are not technically viewed as checks. It has generally been held that post-dated checks are not within the scope of most states' bad check laws.

It is generally held that the giving of a bad check in payment of a preexisting debt does not fall within the purview of most states' bad check laws. Since the debt is preexisting the maker of the check did not deprive the payee of any right; procure anything of value from the payee or wrongfully appropriate anything belonging to the payee.

On paper, the legal consequences for the maker of a bad check are usually quite severe, however, as a practical matter the holder of a bad check may find it difficult to put into effect available remedies.

In most localities it is necessary to file a complaint with the appropriate criminal justice officer such as a sheriff or district attorney to initiate criminal legal action. In the main most of these criminal justice officers are just too busy with other more serious crimes against the community. Therefore, the filing of a bad check criminal action will usually not be promptly acted upon, except in cases involving significant amounts of money.

However, as a credit grantor you can effectively deal with the majority of routine bad check situations encountered by putting into practice the following procedures:

- Instruct your bank to re deposit any checks returned for insufficient or uncollected funds. This procedure will effectively address any clerical errors the check's maker may have made regarding their bank account balance.

On checks still unpaid after re depositing or returned because payment was stopped, you should write to the maker advising them of the non-payment, provide details of the check and request in addition to the amount of the check any appropriate service charges.

It is suggested that the letter be sent certified mail with a return receipt requested. However, on small balance bad checks the letter may be sent regular mail.

- If the maker of a bad check does not respond to your notice and fails to make the check good you should contact a member of the Commercial Collection Agency Association of the CLLA to discuss the situation with them. They will be able to offer you assistance with the collection of the bad check and put you in touch with legal counsel if you desire to discuss legal remedies that may be available to you.

COMMERCIAL COLLECTION AGENCY ASSOCIATION
COMMERCIAL LAW LEAGUE OF AMERICA
TABLE OF BAD CHECK LAWS

<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
Alabama		All Amounts	The greater, either \$30. or actual charge by bank for returned check	None
Alaska	>\$500.	<\$500.	\$25.	\$100., or triple the amount of the check, whichever is greater, except maximum is \$1,000.
Arizona		All Amounts	\$25. or actual bank charge for returned check.	Twice the amount of the check or \$50., whichever is greater plus costs and reasonable attorney's fees awarded by the court.
Arkansas	>\$200.	<\$200.	\$25.	Twice the amount of the check, but in no case less than \$50. plus interest, court costs and reasonable attorney's fee.
California	All Amounts	(1)	\$25. for first check, \$35. for each subsequent one	Three times the amount of the check, but not less than \$100., plus costs of collection
Colorado	>\$400.	<\$400.	\$30., or 20% of check amount	\$100. or, if higher three times the amount of the check plus court cost and reasonable attorney's fees awarded by the court.

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<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
Connecticut	>\$1,000.	<\$1,000.	\$30.	For an NSF check: determined by the court but in no event shall the amount be greater than the amount of the check or \$400., whichever is less. For a check drawn on a non existent account: determined by the court but in no event shall the amount be greater than the amount of the check or \$750.
Delaware	>\$1,000.	<\$1,000.	\$25.	\$100., or three times the amount of the check not to exceed \$500.
District of Columbia	>\$100.	<\$100	\$25.	None
Florida	>\$50.	<\$50.	\$25., or 5% of check face value.	Minimum of \$50., in addition to the amount of the check or three times the amount owing, plus court costs and reasonable attorney fees.
Georgia	>\$500.	<\$500.	\$25., or 5% of check face value, whichever is greater.	Double the amount of the check not to exceed \$500. plus any court cost incurred.
Hawaii		All Amounts	\$30.	\$100., or triple the amount of the check whichever is greater, not to exceed \$500.
Idaho		All Amounts	\$20.	\$100., or triple the amount of the check, whichever is greater, not to exceed \$500.

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<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
Illinois	(2)	All Amounts	\$25. or all costs and expenses, including reasonable attorney's fees necessary to collect the check.	\$100., or triple the amount of the check whichever is greater, not to exceed \$1,500, plus attorney's fees and court costs.
Indiana	>\$2,500. if property acquired was a motor vehicle.	All other amounts	\$20., or 5%, whichever is greater not to exceed \$250.	Treble the face amount of the check, not to exceed \$500.
Iowa	>\$20.	<\$20.	\$20., or 5% of check amount.	Treble the face amount of the check, not to exceed \$500.
Kansas	>\$500.	<\$500.	\$30.	\$100., or three times the amount of the check, but not to exceed the amount of the check by more than \$500.; plus court and reasonable attorneys' fees
Kentucky	>\$300.	<\$300.	\$25.	None
Louisiana	>\$100.	<\$100.	\$25., or 5% of check amount whichever is greater.	Minimum of \$100., or twice the amount of the check plus attorney's fees and court costs.
Maine	All Amounts		\$25.	Amount of check, plus court costs, service costs, collection costs and processing charges incurred by the holder.
Maryland	>\$500. (3)	<\$500. (3)	\$35. maximum	An amount up to double the amount of the check, but not more than \$1,000.

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<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
Massachusetts	>\$100.	<\$100.	\$25.	Minimum of \$100., but not more than \$500., as determined by the court.
Michigan	>50.	<\$50.	\$25.	Double the amount of the check, with a minimum of \$50. and maximum of \$500., plus court costs up to \$250.
Minnesota		All Amounts	\$20., or actual costs not to exceed \$30.	Up to \$100. or up to 100% of the value of the check, whichever is greater. Interest at the rate payable on judgments and reasonable attorney's fees.
Mississippi	>\$100.	<\$100.	\$30.	Varies by face amount of check: Up to \$25.--100% of the check amount; from \$25. to \$200.--50% of the amount of the check and over \$200.--25% of the check amount.
Missouri	>\$150.	<\$150.	\$20.	Treble the amount of the check or \$100., whichever is greater.
Montana	>\$300.	<\$300.	\$30.	An amount equal to the service charge plus the greater of \$100. or three times the amount of the check, but not to exceed the amount of the check by more than \$500.
Nebraska	>\$500 (3)	<\$500. (3)	\$30.	\$10. plus any reasonable handling fee imposed upon the holder by the bank.
Nevada	>\$100.	<\$100.	\$25.	Three times the amount of the check, but not less than \$100. nor more than \$500.

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<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
New Hampshire	>\$500.	<\$500.	\$30.	Court costs, service costs, and collection costs. If judgment obtained and not paid on judgment date, \$10. per business day up to \$500., plus reasonable attorney's fees.
New Jersey	>\$200.	<\$200.	\$20.	\$100., or triple the amount of check, whichever is greater, not to exceed to \$500. more than the amount of the check, plus attorneys', court and mailing fees.
New Mexico	>\$25.	<\$25.	\$20.	\$100., or triple the check amount up to a limit of \$500.
New York		All Amounts	\$20., or a lesser amount contracted for.	If reason for bad check is no existing bank account damages can be twice the face amount of the check or \$750., whichever is less. If reason for bad check is NSF, damages can be twice amount of the check or \$400., whichever is less. Notice must be posted at point of sale.
North Carolina	>\$2,000.	<\$2,000.	\$20.	Treble the amount of the check, with a minimum of \$100. and maximum of \$500.
North Dakota	May be a felony if offense is repeated	All Amounts	\$20.	The lesser of \$100., or three times the amount of the check.
Ohio	>\$150.	<\$150.	\$30. or 10%, whichever is greater.	\$200., or three times the amount of the check.
Oklahoma	>\$50.	<\$50.	\$30.	An amount not to exceed \$5,000.
Oregon	\$75.	<\$75.	\$25.	\$100., or triple the amount of the check not to exceed \$500., plus reasonable attorneys' fees.

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<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
Pennsylvania	>\$75,000.	<\$75,000.	\$25., provided that prior written notice is given at the time check is issued.	\$100., or triple the amount of the check not to exceed \$500.
Rhode Island	>\$100.	<\$1,000.	\$25.	An amount equal to three times the amount of the check, but in no case less than \$200. but no more than \$1,000.
South Carolina		All Amounts	\$25.	Treble the amount of the check or \$500. whichever is less.
South Dakota	>\$500.	<\$500.	\$30.	All reasonable costs and expenses of collection.
Tennessee	>\$100.	<\$100.	\$20.	Treble the face amount of the check, not to exceed \$500. In addition, interest at the rate of 10% per annum; service charges; court costs and reasonable attorney's fee.
Texas		All Amounts	\$25.	None.
Utah	>\$300.	<\$300.	\$20.	Interest; all costs of collection, including court costs, reasonable attorneys' fees equal to the greater of \$100. or three times the check amount, not to exceed the check amount plus \$500.
Vermont		All Amounts	\$25.	Court cost, cost of service, the amount of the check, bank fees, interest, attorney's fees and damages in the amount of \$50.

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<u>STATES</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>	<u>SERVICE FEES</u>	<u>CIVIL PENALTIES</u>
Virginia	>\$200.	<\$200.	\$25.	Three times the amount of the check, up to a maximum amount of \$250., in addition to the amount of the check, legal interest from the date of check, service fee and processing fee.
Washington		All Amounts	\$30.	Reasonable attorney's fees and three times the amount of the check or \$300., whichever is less.
West Virginia	>\$500. (3)	<\$500.	\$15.	\$500. or the amount of the check whichever is less, plus reasonable costs.
Wisconsin	>\$1,000.	<\$1,000.	\$30.	Three times the amount of the check, and all actual costs of legal action, including attorney's fees. The total amount of the foregoing damages cannot exceed \$500.
Wyoming	>\$500.	<\$500.	\$30.	Thrice the amount of the check, but in no case less than \$100. plus costs of collection including reasonable attorney's fees.

- (1) *An offense may be deemed a misdemeanor at the discretion of the court.*
- (2) *The offense is considered a felony, if it represents subsequent offenses over \$150.*
- (3) *Both misdemeanors and felonies are concerned with the acquisition of property.*