



# LAKE OSWEGO POLICE DEPARTMENT Forged Checks

Account Closed and NSF Checks (no checks accepted under \$750)

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The Lake Oswego Police Department will investigate reports of bad checks above \$750 and attempt to get them prosecuted through the Lake Oswego Municipal Court. To do this, you must be familiar with Oregon State Law and recognize that you have responsibilities in the process of prosecution. During the normal course of business, you are going to come in contact with three different types of checks:

*(For checks under \$750.00, please contact the Clackamas County Check Enforcement Program at 1-800-671-3049 or [www.hotchecks.net/clackamas](http://www.hotchecks.net/clackamas))*

A. **FORGED** Forged checks are criminal problems the instant they are written. All forged checks in any amount should be immediately referred to the police department.

B. **ACCOUNT CLOSED** Account closed checks are also criminal problems the moment they are written. There are problems if the bank cannot tell us when the customer was notified the account was closed. In these cases account closed checks must be handled as nonsufficient funds (NSF). We will not accept checks under \$750.

C. **INSUFFICIENT FUND (NSF)**. According to the Oregon Revised Statutes, insufficient fund checks are civil problems at the time they are written. We will not accept checks under \$750. Civil problems become criminal problems only when the person accepting the check has done several things:

1. State law requires that you attempt to notify the person who wrote the check to tell them their check has bounced.
  - a) Contact by phone or in person.
  - b) Send letters to the best address you have for the person who wrote the check. We recommend sending certified or registered "return receipt requested" as documented proof should the case go to court.
2. Once the person has been advised, they have ten days to make the check good before the matter becomes a criminal problem.
3. On the fifteenth day, bring the insufficient fund check to the police department and we will attempt to investigate the case and pursue criminal prosecution.

**To investigate and then prosecute writers of bad checks through the City Attorney's Office for Theft by Deception or Negotiating a Bad Check, efforts must be made to prove the following:**

- A. The writers KNEW the checks would not be paid (honored) by the bank at the time the checks were written.
- B. The checks were presented to the bank for payment within 30 DAYS after they were received.
- C. The writers WERE GIVEN NOTICE that the bank had refused payment.
- D. The writers FAILED TO PAY the sum of the checks within 15 DAYS after receiving notice that the bank had refused payment.
- E. The persons who took the checks can PHYSICALLY IDENTIFY the persons who passed the checks.

**You must remember that the police department is not a collection agency. We provide investigation into criminal cases. Sometimes the checks are made good by the suspects as a natural by-product of the criminal investigation or the court process. It must be emphasized that the purpose of the investigations are criminal prosecution and not simply to get your money back.**

**From a practical standpoint, there are many different types of checks that experience has shown will not usually result in a successful criminal investigation or prosecution. If you decide to accept these types of checks, you must understand that criminal prosecution is very unlikely. Be advised you will probably be accepting these at your own risk.**

- A. **Out-of-State**: The cost of prosecuting out-of-state checks is quite prohibitive. These types of checks would not normally be prosecuted unless they were a very large amount.
- B. **Two-Party**: Two-party checks are almost impossible to prosecute because the person who gives you the check is not usually the person who wrote the check. A course of legal action is missing from that type of check writing scheme. It is highly recommended that businesses not accept two-party checks.
- C. **Government**: Government checks are very difficult to prosecute because it is cost prohibitive to bring a representative of the federal government into a court room. Government checks will not normally be investigated and prosecuted.
- D. **Post-Dated**: These are very difficult to prosecute as it can be shown that "credit" has been extended to the writers of the checks. This introduces a whole new set of rules that are too complicated to explain here.

**Many of the problems associated with investigation and prosecution of bad checks has to do with a simple matter of identification.**

A. We recommend that no checks be accepted unless the writer of the check has at least one form of photo identification.

1. State driver's license, or
2. Photo identification card issued by the State of Oregon, or
3. Photo identification card issued by a bona fide governmental agency.

B. The second form of identification we recommend are credit cards. If writers of checks have established credit and have a few credit cards in their name, the risk factor to the merchants is substantially less than if those persons have never established credit.

**The attached form was designed to assist law enforcement agency personnel to establish cases against writers of bad checks. When you have completed these forms, contact the Police Department at 503-635-0238.**

A. Sign a criminal complaint at the city attorney's office against the writers of the checks.

B. Make available to the court the person who accepted the check, and who can physically identify the writers of the checks.