

ISSUANCE OF BAD CHECK INFORMATION SHEET
TEXAS PENAL CODE, ART. 32.41 CLASS C MISDEMEANOR

What you must do before filing an issuance of a bad check:

1. You must present the check to the bank within 30 days after the check was issued and have the notation of the bank as to why it was returned stamped on the check.
2. You must give notice to the issuer of the check by registered or certified mail, return receipt requested, or by telegram with report of delivery required, or by first class mail if the letter was returned unopened with markings indicating that the address is incorrect and that there is no current forwarding order. (Exception: No notice to the Defendant that the check bounced is required on "Account Closed or "No Account"). It is presumed that the notice was received no later than 5 days by the defendant. Please include the following statement in your letter to the accused per 1995 Legislative Update Effective September 1, 1995: **"This is a demand for payment in full for a check or order not paid because of lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption of committing an offense, and this matter may be referred for criminal prosecution."**

WHEN YOU FILE WITH THE COURT:

1. Fill out the affidavit. You must sign before a notary public if you are mailing them. If presented in person the affidavit can be sworn to before the clerk of the court.
2. You must furnish the court along with the affidavit the following:
 - a. Original returned check
 - b. Returned receipt showing delivery of notice by certified or registered mail or such mail returned undelivered by the Post Office.
3. You must provide the court with complete information regarding the maker of the check. The Court cannot issue a warrant of arrest unless the following information is provided:
 - a. **Defendant's full name**
 - b. **Current Address**
 - c. **Driver's License number**
 - d. **Date of Birth**
4. You must file the complaint in the precinct where the offense occurred.

A STOP PAYMENT ON A CHECK IS CONSIDERED A CIVIL MATTER AND SHOULD BE HANDLED ACCORDINGLY. THERE ARE CIVIL CLAIM FORMS PROVIDED THROUGH OUR OFFICE.

LEGAL QUESTIONS WILL NOT BE ANSWERED BY THIS OFFICE

If you have additional procedural questions please contact this court at – 972.204.6720 Fax 972.204.6729

All Correspondence should be addressed to:

Judge Mark Russo, 1111 East Yellowjacket Lane, Ste. 303, Rockwall, Texas 75087

AFFIDAVIT – ISSUANCE OF BAD CHECK

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

PERSONALLY APPEARED before me the undersigned authority, this affiant, who after being by me duly sworn, deposes and says your affiant has good reason to believe and does believe that one (DEFENDANT'S NAME) _____ hereinafter styled Defendant, heretofore on or about the _____ day of _____ A.D., _____, in the County of Rockwall and State of Texas, did unlawfully and knowingly within said county and state, then and there issue and pass to (MERCHANT'S NAME) _____ a check for the payment of money being of the tenor following:

MERCHANT'S NAME _____
ADDRESS _____
CITY/ST/ZIP _____
PHONE NO _____

CHECK NO. _____ CHECK DATED _____ IN THE AMOUNT OF \$ _____
BANK OF _____ ACCOUNT # _____ and

The said defendant knowing at the time of the issuance and passing of the aforesaid check that he/she did not have sufficient funds on deposit with the bank on which said check was drawn for the payment in full of the check as well as all other checks and orders then outstanding.

AGAINST THE PEACE AND DIGNITY OF THE STATE;

Sworn to and subscribed before me this _____ day of _____, 20_____.

Justice Court Clerk/Notary Public in and for
Rockwall County

Affiant Signature

INFORMATION ON DEFENDANT (WE MUST HAVE THE FOLLOWING INFORMATION IN ORDER TO FILE AN AFFIDAVIT: TX.D.L., RACE, SEX, DATE OF BIRTH, ADDRESS.)

TX. Drivers License # _____ D.O.B. _____ Race _____ Sex _____
Res. Address _____ Bus. Address _____
City, State, Zip _____ City, State, Zip _____
Home Phone # _____ Bus. Phone # _____
Date Cert. Letter Sent _____ Indicate How Letter Return _____

Based on the above affidavit and the facts in this case, I have made determination that probable cause exists and instruct the clerk to issue a Warrant for the Arrest of the Defendant.

Signed the _____ day of _____, 20_____.

JUDGE MARK RUSSO
JUSTICE OF THE PEACE, PCT.3

DEMAND FOR PAYMENT

DATE: _____

TO: _____

This letter gives you official notice in accordance with Texas Penal Code Sec. 31.06 that the check on your account at the _____ Bank/Credit Union, in the amount of \$ _____ dated _____ has been returned to me by this bank for the below marked reason:

_____ This is a demand for payment in full for a check or order not paid because of **lack of funds or insufficient funds**. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.

_____ This is a demand for a check or order not paid because of a **stop payment** placed on the check or order. If you fail to make payment in full within 10 days or you do not return the property within 10 days after the date of receipt of this notice, the failure to pay or return the property creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.

Mail restitution to: _____

