

HOT CHECK PROCEDURES

1. The check must be presented to the named bank for payment within 30 days of the issuance date.
2. The holder of the check must send the Returned Check Notice form to the maker by Certified Mail or First Class Mail. If the merchant uses their own form or letter, it must include the following statement:

“This is a demand for payment in full for a check or order not paid because of a 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.”

A written notice is not required if the check was originally returned “account closed.”

3. If the check is not paid within 10 days after the notice is received, then it may be brought to the District Attorney’s Hot Check Division for possible prosecution. The person submitting the check must furnish:
 - a. The original check with the bank flag or other proof of dishonor such as an “NSF” stamp;
 - b. A copy of the Certified Mail receipt letter OR Affidavit of Service if First Class Mail was used;
 - c. A copy of the Returned Check Notice;
 - d. The full name, address and phone number of the person who took the check;
 - e. A description of the person who passed the check, if possible;
 - f. Specific identification of the maker such as a driver’s license number written on the check, etc.

Be aware that not every “hot check” may be prosecuted under Texas criminal law. Some checks must be collected through a civil suit. The District Attorney’s Office cannot prosecute the following checks under Texas criminal law:

- Post-dated or hold checks
- Checks older than two years
- Checks not presented to your bank within 30 days
- Checks presented outside Midland County
- Checks for payment on account
- Checks used for transactions outside of Midland County