

Don't Make "Cold Checks" a Disaster

Cold checks – a common form of financial crime

A *cold check* occurs when you have no money in your account, you write a check anyway, and the check bounces. Many people write checks realizing it takes them a couple of days to clear the bank and, by then, a paycheck should have been deposited. The time between writing a check and actual withdrawal of money from the account is known as *float time*.

The practice of floating checks has become riskier since the passage of the Check Clearing for the 21st Century Act, which went into effect October 28, 2004. It is now almost certain that checks written at the business location will bounce if there is no money in the account when the check is written, because of instant electronic withdrawals. However, mailing checks to pay bills will still allow some float time.

It is estimated that 450 million bad checks are written each year. The new law will more than likely increase the number of cold checks from consumers who have relied on float time in the past and do not know their checks will now clear in hours rather than days.

This could happen to anyone

Sometimes writing a cold check is not intentional. As an example, someone writes a \$350 rent check, becomes distracted by his or her children, and forgets to write the amount in

the check register. Then later, the person writes checks to pay other bills, believing enough money is in the account to cover those checks. A week later, the electric company calls, saying cash is needed by the next day to cover the cold check and an additional \$25 fine. The bank mails a notice that there was not enough money in the account to cover the electric bill or the checks for gas and telephone service and that it also is charging a service fee of \$25 for each bounced check, for a total of \$75.

The next day, this person receives calls from the gas and telephone companies about the cold checks written to them. In all, writing three cold checks cost an extra \$150 in fees (\$75 to the bank and \$25 each to the three utility companies).

What will happen if you don't make good on cold checks

First, if the bank does not receive the fees it charges (in this case, \$25 for each cold check), along with additional money required to keep the checking account open at a minimum balance, it will close your checking account.

Second, if you do not go to the business and cover the cold check and service fee within 10 days of receiving a warning letter or 30 days after writing the check, businesses usually will contact the county and/or commonwealth attorney to collect the money you owe them.

The county and/or commonwealth attorney then will send you a letter warning you that you have 10 days to contact the business and cover the cold check with cash and pay the service fee or face possible prosecution. Additionally, since July 2000, a county attorney also can charge you a \$25 service fee for your bad check. If you ignore the county attorney's letter, charges will be filed against you, which will cost you even more money and/or jail time.

Don't write cold checks

First-time offenders who have written cold checks in Kentucky normally receive probation for up to two years or until all restitution is paid in full for amounts under \$300 (Class A misdemeanor). However, the type of sentence you might receive is up to the judge. Judges have the right to merge several cold checks together to make any offense a Class D felony (over \$300).

You will also have to pay court costs and handling fees of \$150, plus the value of the check. You could even be charged an additional \$500 fine plus up to one year in jail, if convicted.

Warning: Your bank's and the county and/or commonwealth attorney's actions will show up on your credit report at the major credit bureaus and will negatively affect your consumer credit rating for seven years.

How to protect yourself from writing cold checks

- **Automatic withdrawal from savings account to checking account** – Many banks and credit unions offer this service to protect you from bouncing a check. Of course, you must have enough money in your savings account to cover your checks. The average cost for this service is \$5 per transfer.
- **Overdraft protection loan** – Many banks and credit unions offer this service, also called an **overdraft line of credit**, for a fee. If you do not have a savings account or if you do not have enough money in your savings account to cover your check(s), an automatic loan will be issued. Be sure to compare costs. Some banks and credit unions charge low interest rates and a small fee to cover automatic loans. However, many banks today charge a \$25 monthly fee for this service. Although they loan you the money to cover these checks, they also charge you interest. So shop around for the best deal.

Some pros and cons when borrowing money

If you do not have a savings account or an overdraft protection plan and you bounce a check, get a loan right away to cover your cold checks.

- **Family or friends** – This is usually the least expensive source of loans, as most friends and family members

will not charge you interest. However, before you borrow, make sure you will be able to repay the loan, even at a rate of just \$10 a week. Do not promise to pay back more than you can afford. The drawback is that you share your financial situation with those who matter most.

- **Credit Union** – Get a loan from your credit union at work or from another credit union, but be sure to shop around. Members can borrow money at about 11% interest. Most members can have payments taken directly out of their paycheck each pay period.
- **Small loan company** – Most companies ask for collateral and charge between 24-36% interest. Because the rate is so high, you should try the previous two options first.
- **Cash advance business** – Although this might be the quickest way to get needed money, it could also be the most costly. Your last pay stub and two forms of identification are all that is required. You are limited to a maximum loan amount of \$500, and the annual percentage rate could be as high as 390%.

Caution: Take a cash advance loan only as a last resort, and borrow only as much as you can afford to pay back with your next paycheck and still have enough to make it to the following payday.

Tips to avoid writing cold checks

- ❖ Immediately enter in your register all debit charges, automatic withdrawals, and service fees.
- ❖ Balance your checkbook often.
- ❖ See if your bank offers overdraft protection loans.
- ❖ Always round up the dollar entries in your register.

Sources:

FindLaw For Business. (2002). "Don't Write a Bad Check." <http://biz.findlaw.com/>.

Kentucky Statutes 514.040: Theft by deception.

Related Cooperative Extension Publications (available from your county Extension office):

- ✚ **Check Advance Loans – Are They Right for You?**
- ✚ **Is Rent-To-Own Right for You?**
- ✚ **Think Twice Before Using Instant Tax Refund**

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