

What to do if Your Check Bounces

What is a bounced check?

A “bounced” or dishonored check is a check that you write that you can’t pay for, usually because you don’t have enough money in your bank account to cover the amount on the check. Writing bad checks is a crime in Washington. (RCW 9A.56.060.)

State law lays out specific procedures that both you and the party trying to collect on your check must follow when your check bounces.

◆ Note: You’ll see citations (example: “RCW 9A.56.060”) in this packet. Citations tell you the specific law that supports the statement before the citation. Our citations can help you to look up the law, at your local law library, or online at <http://apps.leg.wa.gov/RCW/default.aspx>.

What happens when my check bounces?

After giving your check to a merchant, the merchant sends your check to the bank to collect the money. If you don’t have enough money in your account to cover the check, the bank will dishonor, or not pay, the merchant for your check. When this happens, your check has “bounced.” Your bank will return the check to the merchant.

Next, the bank or a collection agency must send you a “Notice of Dishonor.” (RCW 62A.3-503.) The Notice of Dishonor tells you that you still owe the merchant the face value of the check and that you also owe a returned check fee to the bank or collection agency.

After your bank sends you this Notice of Dishonor, the bank is no longer involved in collecting on your check. The collection becomes between you, the merchant and any collection agency the merchant might use. The law sets out very specific procedures for the merchant and debt collection agencies to follow in their actions to collect the money that you owe.

- 33 days after the Notice of Dishonor is sent, the person to whom you owe money may file a lawsuit against you to collect the debt. During that 33-day period, the amount that the merchant or collection agency can collect from you is limited to the face amount of the check, a reasonable handling fee, a 12% annual interest fee built up since the Notice of Dishonor was sent, and the costs of collection not to exceed the face amount of the check or \$40, whichever’s less.
- If you don’t resolve the matter within this 33 day period, the merchant or collection agency may file a lawsuit against you. You may be responsible for

the above costs as well as any court costs, service costs, and court-ordered attorney fees. (RCW 62A.3-515(1).)

- If the lawsuit goes forward and the court rules that you bounced the check, you may then be responsible for all of the above costs and fees *AND* three times the face amount of the check or \$300, whichever is less. (RCW 62A.3-530(1).)

Can I still settle even after I'm sued over the bad check?

Even if you're sued over the bad check, the law gives you a chance to settle before trial.

If you can offer and pay the face amount of the check, plus any court costs, service costs, reasonable handling fees, collection costs that are either the face amount of the check or \$40 (whichever's less), the collection agency or merchant must take your payment as full satisfaction of its claim. (RCW 62A.3-515(2).)

This means the case would be dismissed. You wouldn't face the possibility of a judge ordering you to pay all the above costs *PLUS* three times the face amount of the check or \$300.

What if the debt collector doesn't follow the procedure?

Whoever is trying to collect money from you for the bounced check must follow these procedures exactly. They're **breaking the law** if:

- they demand higher interest or collection fees than described above,
- they demand any interest or collection fees sooner than 15 days after the Notice of Dishonor is sent to you,
- they demand attorney fees higher than those set by the court, or they demand attorney fees sooner than 15 days after the Notice of Dishonor is sent to you.

If they do **any** of these things in trying to collect from you, they'll no longer have any claim to collect interest fees, collection costs, or attorney fees. You'll owe only the face amount of your check and a reasonable handling fee. (RCW 62A.3-525)

How can someone collect a debt from me?

Federal law prohibits debt collectors from doing certain things as they try to collect a debt from you.¹ If a debt collector does any of the following to you while trying to collect on your bounced check, you may be entitled to damages.

Debt collectors CANNOT:

- Contact you after they receive notice that you have attorney representation.
- Tell anyone that they're from a debt collection agency (unless they're specifically asked) or that you owe a debt while they're trying to find you. They are required however, to identify themselves and say that they're trying to find you.

¹ Federal "Fair Debt Collection Practices Act" (15 U.S.C. 1692 *et. seq.*). Available at your local law library or online at <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre27.pdf>.

- Talk to anyone, other than those directly connected with the case, about the debt. Thus, they can't tell your employer, relatives or friends that you owe a debt – although they can talk to your spouse about the debt, or to your parents if you're a minor.
- Contact you anymore if you write them to say that you won't pay the debt or that you want them to stop contacting you. However, they may contact you to tell you that they'll no longer try to collect the debt, that there are specific actions they can now take against you to solve the problem, or that they're taking specific actions against you to collect the debt (example: filing suit against you).
- Threaten you with arrest for not paying your debt.
- Call you at work if they have reason to know it's inconvenient.
- Under both federal and Washington State law², a debt collector is prohibited from:
 - Claiming s/he is someone s/he isn't – like a government representative, or an attorney.
 - Claiming s/he can take actions that s/he can't – like taking your house, telling your boss that you owe a debt, or that s/he can hurt your credit rating. Washington State law also prohibits debt collectors from doing the following while trying to collect a debt from you:
 - Calling before 7:30 a.m. or after 9 p.m.
 - Calling your house more than 3 times a week.
 - Calling you at work more than once a week.

If any of these rules are violated, you may have a claim against the debt collector or collection agency.

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² Washington State “Collection Agencies” statute (RCW 19.16.250). Available at your local law library or online at <http://apps.leg.wa.gov/RCW/default.aspx?cite=19.16.250>.