

CHECK 21 – WHAT YOU NEED TO KNOW TO AVOID BOUNCING CHECKS!

Historically, many individuals have taken advantage of “float” when writing a check. This means a check is written without enough money in the account to cover it. The check-writer counts on it taking several days for the check to clear, thus providing extra time to add money to the account.

If you Have Counted On “Float”, You Need To Understand How Check 21 Will Affect You.

On October 28, 2003, Congress passed the Check 21 law, which takes effect October 28, 2004. This law allows financial institutions to implement efficient processes to clear checks in a more timely manner. It eliminates some of the legal barriers to “check truncation”, meaning removal of the original paper check you wrote from the check collection/return process. The law mandates that all financial institutions must accept a “substitute check”, but does not mandate all financial institutions must accept electronic checks.

What Is A Substitute Check?

A “substitute check” is a new negotiable instrument. In simple terms, it is a copy of an original check. When you write a check, the Federal Reserve goes through an electronic process of having the amount of the check removed from your account, then transferred to the financial institution that “honored” your check. If the financial institution wants a “paper” record of the transaction, the Federal Reserve sends a “substitute check” versus the original check.

Check-Floaters, Beware!

In the majority of cases, this “substitute check” process will be transparent to you. **However, it does not mean it will take less time for checks to clear your account – hours instead of days. Therefore, it becomes critical for money to be in your account when you write checks to avoid having checks “bounce” and/or incurring insufficient funds fees.**

You will not see a “substitute check” (copy of the original check) often, but occasionally you may:

- When cancelled checks are included with your checking account statement,
- When viewing check images online,
- When you request a copy of a paid check, or
- When a deposited check is returned unpaid.

The law does establish basic requirements for a “substitute check”, such as:

- It must show the front and back of the original check, and
- It must show the MICR coding (the numbers across the bottom of the check).

In Summary

Check 21 allows financial institutions to clear checks electronically, and it allows any financial institution that does not want to participate in the electronic process to request a paper copy (substitute check).

SIMPLY PUT: In the vast majority of cases this change will be transparent to you and you will not be affected. However, the Check 21 law does mean your checks will clear in hours rather than days – so when you write a check, make sure you already have the sufficient money in the account to cover the amount of the check. If you don’t, you run the risk of having the check you write “bounce” and/or being responsible for an “insufficient funds” fee.

Your Rights Under The Law

The Check 21 law gives you the right to file a claim for an expedited refund if you receive a “substitute check” (copy of the original) and believe:

1. The “substitute check” was incorrectly charged against your account*

2. The amount charged against your account was incorrect*

*If you require the original check and/or a better “copy” to prove either 1 or 2 above, you may do so.

If either 1 or 2 of the above is true, the law entitles you to an expedited refund for the amount of your loss, including the amount of the “substitute check” discrepancy against the original check, or in total when the “substitute check” was incorrectly charged against your account, plus interest on the amount if your checking account pays interest, plus a refund or credit for any insufficient fund fees you may have incurred.

All claims must be made within 40 calendar days of the later of these two dates:

- The date of the account statement which includes the transactions you are questioning, or
- The date on which the “substitute check” was provided to you.

If there is a valid reason why such a claim cannot be made within 40 days, such as illness, additional time will be granted.

Your claim may be submitted via email, regular mail or by phone. The claim must include:

- Why you believe the transaction is incorrect,
- How much money you lost because of the claimed error, and
- A copy of the “substitute check”. In cases where the “substitute check” was correctly charged against your account, but you believe the amount charged was incorrect, rather than a copy of the “substitute check” you may alternately provide information to help identify it, such as the check number, the name of the person or company to whom you wrote the check, and the amount charged against your account.

Your claim will be promptly investigated. If a decision is not made within 10 business days, we will refund the amount claimed up to \$2,500. Any additional amount will be refunded within 45 calendar days, plus appropriate interest. If after 10 days the ultimate answer is the transaction was correct, and you had been refunded up to \$2,500 in the 10-day time frame, the amount refunded will be removed from your account. In all cases, you will be sent a notice outlining the results of your claim’s investigation and the appropriate amounts involved.