

17.3 WORTHLESS CHECK

§ 832.05(2), Fla. Stat.

This statute applies to a variety of orders to pay money and "commercial paper," and to a variety of types of drawees and transactions. The charge has been framed to cover the most common transaction encountered in criminal litigation. It can be readily modified to fit other transactions covered by the statute.

To prove the crime of (crime charged), the State must prove the following [six] [seven] elements beyond a reasonable doubt:

1. (Defendant)

[drew]

[made]

[uttered]

[issued]

[delivered]

the check admitted in evidence as State Exhibit _____.

2. When (defendant) did so, there was not sufficient money on deposit in the bank to pay the check.

3. (Defendant) knew when [he] [she] wrote the check that [he] [she] did not have sufficient money on deposit with the bank.

4. (Defendant) knew [he] [she] had no arrangement or understanding with the bank for the payment of the check when it was presented.

5. The check was in the amount of \$150 or more.

Give 6a when payee exchanges for value.

6. a. (Person or business alleged), to whom the check was payable, transferred it to (as alleged) in exchange for (goods or money alleged).

Give 6b when subsequent holder exchanges for value.

b. (Holder alleged) transferred the check to (as alleged) in exchange for (goods or money alleged).

Give 7 only if not exchanged for money.

7. The (goods) had some monetary value.

Defenses. Give if applicable.

Even if you find all these elements are proved, you should go on to consider the defense. You must find the defendant not guilty if you find that either of the following three defenses have been

proved:

- 1.** (Name of payee or holder) **knew that** (defendant's) **funds and credit at the bank at the time the check was given were insufficient to pay the check; or**
- 2.** (Name of payee or holder) **had good reason to believe that** (defendant's) **funds and credit at the bank at the time the check was given were insufficient to pay the check; or**
- 3.** **The check was post-dated.**

Give if applicable.

When an employee of a business receives a check, the business must be regarded as knowing whatever the employee knows about the check.

Lesser Included Offenses

WORTHLESS CHECKS — 832.05(2)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt, except when uttering is charged — under \$150	777.04(1)	5.1

Comment

This instruction was adopted in 1981 and amended in 1987.