

SUBJECT: Worthless Check Information Requests

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INTRODUCTION

This release applies to all credit unions, state and federal. It describes how law enforcement agencies and prosecutors can request information from a financial institution to help in a worthless check investigation or prosecution.

EXECUTIVE SUMMARY

The Wisconsin Department of Justice, a district attorney, or a state or local law enforcement agency that is investigating a worthless check case can request certain kinds of information directly from a financial institution without having to present a subpoena or warrant. Under Wisconsin law, the credit union must provide the information within 10 days. The request must be in writing, and only certain types of information may be provided. The credit union cannot charge a fee for responding to the request.

REQUESTS FOR INFORMATION

Ordinarily, credit unions must keep member information confidential. A subpoena or warrant is usually needed before the credit union can give information to a law enforcement agency. But when state officials investigate or prosecute a worthless check case, Wisconsin law gives them a simpler way to get the information they need.

Under Wisconsin law (*Wis. Stats. § 943.24*), the Wisconsin Department of Justice, a district attorney, or a state or local law enforcement agency that is investigating a worthless check case can request certain kinds of information directly from a financial institution without having to present a subpoena or warrant.

Providing information under this law would not violate the NCUA Privacy Rules, which make an exception that allows credit unions to release nonpublic personal information to appropriate authorities to comply with a properly authorized civil, criminal or regulatory investigation.

Under the Wisconsin law, a credit union must provide the following information within 10 days after receiving the request:

1. Documents relating to the opening and closing of the person's account.
2. Notices regarding any of the following that were issued within the 6 months immediately before the request and that relate to the person:
 - a. Checks written by the person when there were insufficient funds in his or her account.
 - b. Overdrafts.
 - c. The dishonor of any check drawn on the person's account.
3. Account statements sent to the person by the financial institution for the period during which any specific check covered by a notice (under point #2, above) was issued, along with the period immediately before and after that period.
4. The last known address and telephone number for the person's home and business.

What Is A Proper Request?

The request for information must be in writing, and it must state that the agency is investigating or prosecuting the person for violating Wis. Stats. § 943.24 (the section of the statutes that makes issuing worthless checks a crime).

The credit union cannot impose a fee for providing the requested information.

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League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department

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