**ISSUING A BAD CHECK 11.46.280**

**Revised 2017**

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, the defendant in this case, has been charged with the crime of issuing a bad check.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

(1) the defendant issued a check;

(2) the defendant knew that the check would not be paid by the [bank] [credit union] [drawee]; and

(3) the face amount of the check was [$25,000 or more] [$1,000 or more but less than $25,000] [$250 or more but less than $1,000] [less than $250].

["Check" means a draft, check, or similar sight order for the payment of money, but does not include a postdated check or a promissory note.]

[A person "issues a check" when the person writes and delivers it or causes it to be delivered to another person who thereby acquires a right against him or her with respect to the check; a person who writes a check with the intent that it be so delivered is considered to have issued it if the delivery occurs.]

If [payment of the check was refused by the [bank] [credit union] [drawee] for lack of funds upon presentation within 30 days after issue, and the defendant failed to make full satisfaction of the amount due within 15 days after notice of nonpayment was deposited as first class mail at the address appearing on the non-paid check or the defendant's last known

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address] [the defendant had no account with the [bank] [credit union] [drawee] at the time the check was issued], you may, but need not, infer that the defendant knew that the check could not be paid by the [bank] [credit union] [drawee].

["Amount due" means the face amount of the non-paid check plus all costs and protest fees assessed by the [bank] [credit union] [drawee].]

# USE NOTE

The following terms are defined in other instructions:

"knowingly" - 11.81.900(b)

Normally, the committee would use the language of the statute in drafting the instruction. However, the committee has substituted language here because it felt the language of the statute was too complex.

For discussion of the prima facie evidence problem, see Alaska Rule of Evidence 301; Calantas v. State, 599 P.2d 147 (Alaska 1979); Menard v. State, 578 P.2d 966 (Alaska 1978); Howard v. State, 583 P.2d 827 (Alaska 1978).