

**FLOYD COUNTY BOARD OF COMMISSIONERS**

Floyd County, Indiana

**ORDINANCE NUMBER FCO 2003-XI**

(Unpaid Bank Check Collection Fund)

WHEREAS, Indiana Code 36-1-3 enables Floyd County to enact such ordinances that are not otherwise proscribed by law;

WHEREAS, the Office of Prosecuting Attorney, for the 52<sup>nd</sup> Judicial Circuit, possesses the statutory notice to enforce payment of dishonored or unpaid bank checks for merchants and other payees within Floyd County, as provided under Indiana Code 35-43-5-5;

WHEREAS, Indiana Code 35-43-5-5(e) allows a check collection service fee whenever the maker of an unpaid bank check redeems the unpaid bank check as a defense to criminal prosecution.

**NOW THEREFORE BE IT ORDAINED** by the Board of Commissioners of Floyd County as hereafter:

Section 1. The Prosecuting Attorney for the 52<sup>nd</sup> Judicial Circuit, who serves Floyd County may establish an "*Unpaid Bank Check Collection Program*" ("Program") through the Office of Prosecuting Attorney in which the payee or holder of an unpaid or dishonored bank check who is requesting criminal prosecution of the maker of the unpaid or dishonored check may as follows:

- a) authorize the Office of Prosecuting Attorney to give statutory notice to the maker of the unpaid check that enables the maker of the unpaid check to redeem the unpaid check as a defense to criminal prosecution as provided under Indiana Code 35-43-5-5(e);
- b) designate and authorize the Office of Prosecuting Attorney, to charge and collect a collection service fee in the amount as allowed by Indiana Code 35-43-5-5(e);
- c) authorize the Office of Prosecuting Attorney to charge, collect and retain a "bad check service fee" in the amount of \$20.00 as authorized by law.

This ordinance shall not restrict or limit in any way the lawful power or discretion of the Prosecuting Attorney in performing duties as prosecuting attorney. This ordinance shall be construed as enlarging the power and discretion of the Prosecuting Attorney in Floyd County which includes the power and discretion to waive collection of any fees, or to negotiate or settle any issues of payment.

Section 2. Upon implementation of the program, the Office of Prosecuting Attorney shall establish and maintain a special trust checking account for deposit of all funds received under the program. From this checking account, the Office of Prosecuting Attorney shall disburse the lawfully due and correct amount of payment that the maker of the check owes to the check payee or holder. This account shall be processed and administered according to Indiana State Board of Accounts standards for public funds. Periodically, and not less than monthly, the Office of Prosecuting Attorney shall deliver to the Treasurer of Floyd County the "bad check service fees" charged and retained by the Office of Prosecuting Attorney. This amount shall be

held by the Treasurer of Floyd County in an account hereafter established, known as and designated as the "Floyd County Prosecutor's Check Enforcement Fund".

Section 3. Funds held in the Floyd County Prosecutor's Check Enforcement Fund may be expended at anytime upon request by the Prosecuting Attorney and with the approval and by lawful appropriation by the Floyd County Council, as provided by law. This shall be a "non reverting" account and its balance may continuously accumulate.

Section 4. This Ordinance shall be effective and in full force April 1, 2003, and continuing thereafter indefinitely.

ADOPTED, ORDAINED, PASSED AND ORDERED this 4/1/03

**FLOYD COUNTY BOARD OF COMMISSIONERS  
State of Indiana**

John C. Reiser

Mike Mills

Charles A. Leibinger

Attest

Teresa A. Platts  
Auditor, Floyd County, Indiana