

Are postdated checks legal? Can a town refuse to accept postdated checks?

In short, postdated checks are legal. However, please read on for the “fine print.”

The Vermont Uniform Commercial Code (U.C.C.) governs commercial transactions in the State including the use of postdated checks. Under the Vermont U.C.C. an individual may present a postdated check for payment. Specifically, the law provides, "(a)n instrument may be antedated or postdated." 9A V.S.A. § 3-113. However, a bank may charge against an individual's account, even though the payment was made before the date of the check, unless the individual notifies the bank that the check should not be cashed before that time. 9A V.S.A. § 4-401(c).

The above statutory provision is enabling, meaning that while an individual is allowed by law to postdate a check, the recipient is not obliged to accept it. A postdated check after all is nothing more than a promissory note for future payment. “The date stated determines the time of payment if the instrument is payable at a fixed period after date." 9 V.S.A. § 3-113.

Consequently, a town could simply adopt a policy that timely payment must be made or that postdated checks will not be accepted. This policy could be independently established by each town officer (selectboard, clerk, and treasurer) or by adopting a policy that all three officeholders sign. The latter would be the best practice as it lends itself to a uniform administration of town finances. If a town does accept postdated checks it should bear in mind that it is the responsibility of the individual presenting the check to inform his or her bank when it should be cashed. A town, contrary to what some citizens will assert, is not liable for one's overdraft fees.

- *Garrett Baxter, Senior Associate, VLCT Municipal Assistance Center*

VLCT News, July 2005