

**SUBSTITUTE FOR
HOUSE BILL NO. 6458**

A bill to amend 1962 PA 174, entitled
"Uniform commercial code,"
by amending section 4403 (MCL 440.4403), as amended by 1993 PA 130.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4403. (1) A customer or any person authorized to draw on
2 the account if there is more than 1 person may stop payment of any
3 item drawn on the customer's account or close the account by an
4 order to the bank describing the item or account with reasonable
5 certainty received at a time and in a manner that affords the bank
6 a reasonable opportunity to act on it before any action by the bank
7 with respect to the item described in section 4303. If the
8 signature of more than 1 person is required to draw on an account,
9 any of these persons may stop payment or close the account.

1 (2) A stop-payment order is effective for 6 months, but it
2 lapses after 14 calendar days if the original order was oral and
3 was not confirmed in writing within that period. A stop-payment
4 order may be renewed for additional 6-month periods by a writing
5 given to the bank within a period during which the stop-payment
6 order is effective.

7 (3) IF A CUSTOMER OF A BANK REQUESTS A STOP-PAYMENT ORDER
8 UNDER THIS SECTION BECAUSE 1 OR MORE BLANK CHECKS OF THE CUSTOMER
9 WERE STOLEN OR THE CUSTOMER WAS A VICTIM OF IDENTITY THEFT AS
10 DEFINED IN SECTION 3 OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA
11 452, MCL 445.63, AND THE CUSTOMER PROVIDES THE BANK WITH A COPY OF
12 A POLICE REPORT EVIDENCING THE CUSTOMER'S CLAIM THAT 1 OR MORE
13 CHECKS WERE STOLEN OR HE OR SHE WAS A VICTIM OF IDENTITY THEFT, THE
14 BANK SHALL DO ALL OF THE FOLLOWING:

15 (A) HAVE THE CUSTOMER PREPARE, SIGN, AND DELIVER TO THE BANK
16 AN AFFIDAVIT OF FRAUD AND FORGERY, IN A FORM APPROVED BY THE
17 DEPARTMENT OF STATE POLICE, OR AN AFFIDAVIT OF IDENTITY THEFT AS
18 DESCRIBED IN SECTION 11 OF THE IDENTITY THEFT PROTECTION ACT, 2004
19 PA 452, MCL 445.71.

20 (B) IF THE BANK DISHONORS OR RETURNS AN ITEM SUBJECT TO THE
21 STOP-PAYMENT ORDER, PROVIDE THE CUSTOMER WITH THE NAME OF THE
22 PERSON WHO PRESENTED THE ITEM FOR PAYMENT OR MAKE AVAILABLE TO THE
23 CUSTOMER A COPY OF THE DISHONORED OR RETURNED ITEM. IN ADDITION,
24 THE BANK MAY DO 1 OF THE FOLLOWING, IF APPLICABLE:

25 (i) IF THE PERSON WHO PRESENTED THE ITEM FOR PAYMENT IS A
26 MERCHANT THAT ACCEPTED THE ITEM AS PAYMENT FOR GOODS AND SERVICES,
27 NOTIFY THE MERCHANT THAT THE REASON FOR THE DISHONOR OR RETURN OF

1 THE ITEM IS THAT IDENTITY THEFT MAY HAVE OCCURRED AND OFFER TO
2 PROVIDE THE MERCHANT WITH A COPY OF THE CUSTOMER'S SIGNED AFFIDAVIT
3 UNDER SUBDIVISION (A).

4 (ii) IF THE PERSON WHO PRESENTED THE ITEM FOR PAYMENT IS A
5 PRESENTING BANK, NOTIFY THE PRESENTING BANK THAT THE REASON FOR THE
6 DISHONOR OR RETURN OF THE ITEM IS THAT IDENTITY THEFT MAY HAVE
7 OCCURRED AND OFFER TO PROVIDE THE PRESENTING BANK WITH A COPY OF
8 THE CUSTOMER'S SIGNED AFFIDAVIT UNDER SUBDIVISION (A). A PRESENTING
9 BANK THAT RECEIVES A NOTICE AND A COPY OF AN AFFIDAVIT UNDER THIS
10 SUBPARAGRAPH SHALL NOTIFY THE MERCHANT THAT ACCEPTED THE ITEM AS
11 PAYMENT FOR GOODS AND SERVICES THAT THE REASON FOR THE DISHONOR OR
12 RETURN OF THE ITEM IS THAT IDENTITY THEFT MAY HAVE OCCURRED AND, IF
13 THE PRESENTING BANK HAS A COPY OF THE AFFIDAVIT, OFFER TO PROVIDE
14 THE MERCHANT WITH A COPY OF THE CUSTOMER'S SIGNED AFFIDAVIT UNDER
15 SUBDIVISION (A).

16 (4) ~~—(3)—~~ The burden of establishing the fact and amount of
17 loss resulting from the payment of an item contrary to a stop-
18 payment order or order to close an account is on the customer. The
19 loss from payment of an item contrary to a stop-payment order may
20 include damages for dishonor of subsequent items under section
21 4402.