

# HOUSE BILL No. 6458

September 12, 2006, Introduced by Reps. Farhat, Caul, Nitz, Pavlov, Casperson, Ball and Emmons and referred to the Committee on Banking and Financial Services.

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, DO ALL OF THE FOLLOWING:

22       (i) IF THE PERSON WHO PRESENTED THE ITEM FOR PAYMENT IS A  
23 MERCHANT THAT ACCEPTED THE ITEM AS PAYMENT FOR GOODS AND SERVICES,  
24 NOTIFY THE MERCHANT THAT THE REASON FOR THE DISHONOR OR RETURN OF  
25 THE ITEM IS THAT IDENTITY THEFT MAY HAVE OCCURRED AND PROVIDE THE  
26 MERCHANT WITH A COPY OF THE CUSTOMER'S SIGNED AFFIDAVIT UNDER  
27 SUBDIVISION (A).

1           (ii) PROVIDE THE CUSTOMER WITH THE NAME OF THE PERSON WHO  
2 PRESENTED THE ITEM FOR PAYMENT.

3           (4) ~~—(3)—~~ The burden of establishing the fact and amount of  
4 loss resulting from the payment of an item contrary to a stop-  
5 payment order or order to close an account is on the customer. The  
6 loss from payment of an item contrary to a stop-payment order may  
7 include damages for dishonor of subsequent items under section  
8 4402.