

RECEIVED NOTICE FROM THE CUSTOMER OF THE UNAUTHORIZED SIGNATURE OR ALTERATION AND AFTER THE CUSTOMER HAD BEEN AFFORDED A REASONABLE PERIOD OF TIME, NOT EXCEEDING 30 DAYS, IN WHICH TO EXAMINE THE ITEM OR STATEMENT OF ACCOUNT AND NOTIFY THE BANK.

(E) IF SUBSECTION (D) APPLIES AND THE CUSTOMER PROVES THAT THE BANK FAILED TO EXERCISE ORDINARY CARE IN PAYING THE ITEM AND THAT THE FAILURE SUBSTANTIALLY CONTRIBUTED TO LOSS, THE LOSS IS ALLOCATED BETWEEN THE CUSTOMER PRECLUDED AND THE BANK ASSERTING THE PRECLUSION ACCORDING TO THE EXTENT TO WHICH THE FAILURE OF THE CUSTOMER TO COMPLY WITH SUBSECTION (C) AND THE FAILURE OF THE BANK TO EXERCISE ORDINARY CARE CONTRIBUTED TO THE LOSS. IF THE CUSTOMER PROVES THAT THE BANK DID NOT PAY THE ITEM IN GOOD FAITH, THE PRECLUSION UNDER SUBSECTION (D) DOES NOT APPLY.

[(3) The preclusion under subsection (2) does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item.]

[(4)](F) Without regard to care or lack of care of either the customer or the bank, a customer who does not within 12 months [from the time] AFTER the statement [and] OR items are made available to the customer (subsection [(1)] (A)) discover and report [an] THE CUSTOMER'S unauthorized signature ON or any alteration [on the face or back of the item or does not within 36 months from that time discover and report any unauthorized indorsement] ON THE ITEM is precluded from asserting against the bank [such] THE unauthorized signature [or indorsement] or [such] alteration. IF THERE IS A PRECLUSION UNDER THIS SUBSECTION, THE PAYOR BANK MAY NOT RECOVER FOR BREACH OF WARRANTY UNDER § 4-208 WITH RESPECT TO THE UNAUTHORIZED SIGNATURE OR ALTERATION TO WHICH THE PRECLUSION APPLIES.

[(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim.]

4-407.

If a payor bank has paid an item over the [stop-payment] order of the drawer or maker TO STOP PAYMENT, OR AFTER AN ACCOUNT HAS BEEN CLOSED, or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights:

[(a)](1) Of any holder in due course on the item against the drawer or maker; [and]

[(b)](2) Of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

[(c)](3) Of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.