

§9-1625. Remedies for secured party's failure to comply with Article

(1). If it is established that a secured party is not proceeding in accordance with this Article, a court may order or restrain collection, enforcement or disposition of collateral on appropriate terms and conditions.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(2). Subject to subsections (3), (4) and (6), a person is liable for damages in the amount of any loss caused by a failure to comply with this Article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(3). Except as otherwise provided in section 9-1628:

(a). A person that, at the time of the failure, was a debtor, was an obligor or held a security interest in or other lien on the collateral may recover damages under subsection (2) for its loss; and [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10% of the principal amount of the obligation or the time-price differential plus 10% of the cash price. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(4). A debtor whose deficiency is eliminated under section 9-1626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under Section 9-1626 may not otherwise recover under subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition or acceptance.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(5). In addition to any damages recoverable under subsection (2), the debtor, consumer obligor or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person that:

(a). Fails to comply with section 9-1208; [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). Fails to comply with section 9-1209; [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(c). Files a record that the person is not entitled to file under section 9-1509, subsection (1); [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(d). Fails to cause the secured party of record to file or send a termination statement as required by section 9-1513, subsection (1) or (3); [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(e). Fails to comply with section 9-1616, subsection (2), paragraph (a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(f). Fails to comply with section 9-1616, subsection (2), paragraph (b). [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(6). A debtor or consumer obligor may recover damages under subsection (2) and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under section 9-1210. A recipient of a request under section 9-1210 that never claimed an interest in the

collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(7). If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 9-1210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 1999, c. 699, §A2 (NEW). PL 1999, c. 699, §A4 (AFF).

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