

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962

440.9616 Explanation of calculation of surplus or deficiency.

Sec. 9616. (1) As used in this section:

(a) "Explanation" means a writing that does all of the following:

(i) States the amount of the surplus or deficiency.

(ii) Provides an explanation in accordance with subsection (3) of how the secured party calculated the surplus or deficiency.

(iii) States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency.

(iv) Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) "Request" means a record that meets all of the following:

(i) Authenticated by a debtor or consumer obligor.

(ii) Requesting that the recipient provide an explanation.

(iii) Sent after disposition of the collateral under section 9610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section 9615, the secured party shall do 1 or both of the following:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and in accordance with both of the following:

(i) Sent before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency.

(ii) Sent within 14 days after receipt of a request.

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subsection (1)(a)(ii), a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date, that is 1 of the following:

(i) If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession.

(ii) If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition.

(b) The amount of proceeds of the disposition.

(c) The aggregate amount of the obligations after deducting the amount of proceeds.

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney fees secured by the collateral that are known to the secured party and relate to the current disposition.

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and that are not reflected in the amount in subdivision (a).

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to 1 response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (2)(a). The secured party may require payment of a charge not exceeding \$25.00 for each additional response.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2001, Act 145, Eff. Jan. 1, 2002.