

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962

440.9626 Action in which deficiency or surplus is in issue.

Sec. 9626. In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(c) Except as otherwise provided in section 9628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney fees exceeds the greater of 1 of the following:

(i) The proceeds of the collection, enforcement, disposition, or acceptance.

(ii) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(d) For purposes of subdivision (c)(ii), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under section 9615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2014, Act 104, Imd. Eff. Apr. 10, 2014.