



Ohio Revised Code

Section 1309.626 Action in which deficiency or surplus is in issue - UCC 9-626.

Effective: July 1, 2001

Legislation: Senate Bill 74 - 124th General Assembly

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 is not required to prove compliance with sections 1309.601 to 1309.628 of the Revised Code 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 sections 1309.601 to 1309.628 of the Revised Code.

(C) Except as provided in section 1309.628 of the Revised Code, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with sections 1309.601 to 1309.628 of the Revised Code 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's fees exceeds the greater of:

(1) The proceeds of the collection, enforcement, disposition, or acceptance; or

(2) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with sections 1309.601 to 1309.628 of the Revised Code relating to collection, enforcement, disposition, or acceptance.

(D) For purposes of division (C)(2) of this section, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(E) If a deficiency or surplus is calculated under division (F) of section 1309.615 of the Revised



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Code, 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.