**§9-1626. Action in which deficiency or surplus is in issue**

**(1).**  In an action arising from a transaction, other than a consumer 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. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

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

(c). Except as otherwise provided in section 9‑1628, 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's fees exceeds the greater of:

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

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

(d). For purposes of paragraph (c), subparagraph (ii), 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. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(e). If a deficiency or surplus is calculated under section 9‑1615, subsection (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. [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).]

**(2).**  In an action arising from a consumer transaction in which the amount of a deficiency or surplus is in issue, the following rules apply.

(a). If a secured party represents by affidavit that it has complied with the provisions of this Part relating to collection, enforcement, disposition or acceptance, the secured party need not further prove compliance unless the debtor or a secondary obligor places the secured party's compliance in issue. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

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

(c). Except as otherwise provided in section 9‑1628, 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, neither the debtor nor a secondary obligor is liable for a deficiency. [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).]

SECTION HISTORY

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

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Legislature and is current through October 15, 2024
 . The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.