Cherokee Nation Code Annotated
Title 80: Uniform Commercial Code
Revised Article 9: Secured Transactions
Part 6. Default
Subpart 2. Noncompliance with Article
§ 9–625. Remedies for secured party's failure to comply with article
Cite as: 80 CNCA § 9-625

Remedies for Secured Party's Failure to Comply With Article

(a) Judicial orders concerning noncompliance. 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.

(b) Damages for noncompliance. Subject to subsections (c), (d), and (f), 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.

(c) Persons entitled to recover damages; statutory damages in consumer-goods transaction. Except as otherwise provided in 80 CNCA § 9–628:

(1) 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 (b) for its loss; and

(2) 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 ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) Recovery when deficiency eliminated or reduced. A debtor whose deficiency is eliminated under 80 CNCA § 9–626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under 80 CNCA § 9–626 may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) Statutory damages: noncompliance with specified provisions. In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover Five Hundred Dollars ($500.00) in each case from a person that:

(1) fails to comply with 80 CNCA § 9–208;

(2) fails to comply with 80 CNCA § 9–209;

(3) files a record that the person is not entitled to file under 80 CNCA § 9–509(a);

(4) fails to cause the secured party of record to file or send a termination statement as required by 80 CNCA § 9–513(a) or (c);

(5) fails to comply with 80 CNCA § 9–616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(6) fails to comply with 80 CNCA § 9–616(b)(2).

(f) Statutory damages: noncompliance with 80 CNCA § 9–210. A debtor or consumer obligor may recover damages under subsection (b) and, in addition, Five Hundred Dollars ($500.00) in each case from a person that, without reasonable cause, fails to comply with a request under 80 CNCA § 9–210. A recipient of a request under 80 CNCA § 9–210 who 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.

(g) Limitation of security interest: noncompliance with 80 CNCA § 9–210. If a secured party fails to comply with a request regarding a list of collateral or a statement of account under 80 CNCA § 9–210, 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.

Historical Data

LA 26–03, eff. October 2, 2003.