

554.9628 Nonliability and limitation on liability of secured party — liability of secondary obligor.

1. *Limitation of liability of secured party for noncompliance with article.* Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

- a. the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with [this Article](#); and
- b. the secured party's failure to comply with [this Article](#) does not affect the liability of the person for a deficiency.

2. *Limitation of liability based on status as secured party.* Subject to [subsection 6](#), a secured party is not liable because of its status as secured party:

- a. to a person that is a debtor or obligor, unless the secured party knows:
 - (1) that the person is a debtor or obligor;
 - (2) the identity of the person; and
 - (3) how to communicate with the person; or
- b. to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
 - (1) that the person is a debtor; and
 - (2) the identity of the person.

3. *Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction.* A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

- a. a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or
- b. an obligor's representation concerning the purpose for which a secured obligation was incurred.

4. *Limitation of liability for statutory damages.* A secured party is not liable to any person under [section 554.9625, subsection 3](#), paragraph "b", for its failure to comply with [section 554.9616](#).

5. *Limitation of multiple liability for statutory damages.* A secured party is not liable under [section 554.9625, subsection 3](#), paragraph "b", more than once with respect to any one secured obligation.

6. *When secured party owes duty to debtor notwithstanding subsection 2.* A secured party owes a duty based on its status as a secured party to a person that is a debtor if, at the time the secured party obtains control of a controllable account, controllable electronic record, or controllable payment intangible, the secured party has knowledge that the nature of the collateral or a system in which the collateral is recorded would prevent the secured party from acquiring the knowledge specified in [subsection 2](#), paragraph "a", subparagraph (1), (2), or (3).

2000 Acts, ch 1149, §126, 187; 2022 Acts, ch 1117, §37, 38

Referred to in §554.9625, 554.9626

Subsection 2 amended

NEW subsection 6