



Ohio Revised Code

Section 1310.74 Lessor's damages for non-acceptance, failure to pay, repudiation or other default - UCC 2A-528.

Effective: June 29, 2011

Legislation: House Bill 9 - 129th General Assembly

(A) Except as otherwise provided with respect to damages liquidated in the lease agreement pursuant to section 1310.50 of the Revised Code or otherwise determined pursuant to the agreement of the parties as provided in section 1301.302 and section 1310.49 of the Revised Code, if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under division (B) of section 1310.73 of the Revised Code or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in division (A) or (C)(1) of section 1310.69 of the Revised Code or, if agreed, for other default of the lessee all of the following:

(1) Accrued and unpaid rent as of the date of default, if the lessee has never taken possession of the goods or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor;

(2) The present value as of the date determined under division (A)(1) of this section of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term;

(3) Any incidental damages allowed under section 1310.76 of the Revised Code, less expenses saved in consequence of the lessee's default.

(B) If the measure of damages provided in division (A) of this section is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under section 1310.76 of the Revised Code, due allowance for costs reasonably incurred, and due credit for payments or proceeds of disposition.