

DISPOSITION IS BY LEASE AGREEMENT SUBSTANTIALLY SIMILAR TO THE ORIGINAL LEASE AGREEMENT AND THE NEW LEASE AGREEMENT IS MADE IN GOOD FAITH AND IN A COMMERCIALY REASONABLE MANNER, THE LESSOR MAY RECOVER FROM THE LESSEE AS DAMAGES (I) ACCRUED AND UNPAID RENT AS OF THE DATE OF THE COMMENCEMENT OF THE TERM OF THE NEW LEASE AGREEMENT, (II) THE PRESENT VALUE, AS OF THE SAME DATE, 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 RENT UNDER THE NEW LEASE AGREEMENT APPLICABLE TO THAT PERIOD OF THE NEW LEASE TERM WHICH IS COMPARABLE TO THE THEN REMAINING TERM OF THE ORIGINAL LEASE AGREEMENT, AND (III) ANY INCIDENTAL DAMAGES ALLOWED UNDER § 2A-530, LESS EXPENSES SAVED IN CONSEQUENCE OF THE LESSEE'S DEFAULT.

(3) IF THE LESSOR'S DISPOSITION IS BY LEASE AGREEMENT THAT FOR ANY REASON DOES NOT QUALIFY FOR TREATMENT UNDER SUBSECTION (2) OR IS BY SALE OR OTHERWISE, THE LESSOR MAY RECOVER FROM THE LESSEE UNDER SECTION 2A-528 AS IF THE LESSOR HAD ELECTED NOT TO DISPOSE OF THE GOODS AND § 2A-528 GOVERNS.

(4) A SUBSEQUENT BUYER OR LESSEE WHO BUYS OR LEASES FROM THE LESSOR IN GOOD FAITH FOR VALUE AS A RESULT OF A DISPOSITION UNDER THIS SECTION TAKES THE GOODS FREE OF THE ORIGINAL LEASE CONTRACT AND ANY RIGHTS OF THE ORIGINAL LESSEE EVEN THOUGH THE LESSOR FAILS TO COMPLY WITH ONE OR MORE OF THE REQUIREMENTS OF THIS ARTICLE.

(5) THE LESSOR IS NOT ACCOUNTABLE TO THE LESSEE FOR ANY PROFIT MADE ON ANY DISPOSITION.

2A-528. LESSOR'S DAMAGES FOR NONACCEPTANCE, FAILURE TO PAY, REPUDIATION, OR OTHER DEFAULT

(1) EXCEPT AS OTHERWISE PROVIDED WITH RESPECT TO DAMAGES LIQUIDATED IN THE LEASE AGREEMENT (§ 2A-504) OR OTHERWISE DETERMINED PURSUANT TO AGREEMENT OF THE PARTIES (§§ 1-102(3) AND 2A-503), 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 § 2A-527(2), OR IS BY SALE OR OTHERWISE, THE LESSOR MAY RECOVER FROM THE LESSEE AS DAMAGES FOR A DEFAULT OF THE TYPE DESCRIBED IN § 2A-523(1) OR 2A-523(3)(A), OR, IF AGREED, FOR OTHER DEFAULT OF THE LESSEE (I) 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, (II) THE PRESENT VALUE AS OF THE DATE DETERMINED UNDER CLAUSE (I) 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, AND (III) ANY INCIDENTAL DAMAGES ALLOWED UNDER § 2A-530, LESS EXPENSES SAVED IN CONSEQUENCE OF THE LESSEE'S DEFAULT.