

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 278
SENATE BILL 1216

AN ACT

AMENDING TITLE 33, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 24;
RELATING TO COMMERCIAL REAL PROPERTY RECEIVERSHIP.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, Arizona Revised Statutes, is amended by adding
3 chapter 24, to read:

4 CHAPTER 24

5 UNIFORM COMMERCIAL REAL ESTATE RECEIVERSHIP ACT

6 ARTICLE 1. GENERAL PROVISIONS

7 33-2601. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AFFILIATE" MEANS:

10 (a) WITH RESPECT TO AN INDIVIDUAL:

11 (i) A COMPANION OF THE INDIVIDUAL.

12 (ii) A LINEAL ANCESTOR OR DESCENDANT, WHETHER BY BLOOD OR ADOPTION,
13 OF EITHER THE INDIVIDUAL OR A COMPANION OF THE INDIVIDUAL.

14 (iii) A COMPANION OF AN ANCESTOR OR DESCENDANT DESCRIBED IN ITEM
15 (ii) OF THIS SUBDIVISION.

16 (iv) A SIBLING, AUNT, UNCLE, GREAT AUNT, GREAT UNCLE, FIRST COUSIN,
17 NIECE, NEPHEW, GRANDNIECE OR GRANDNEPHEW OF THE INDIVIDUAL, WHETHER
18 RELATED BY THE WHOLE OR THE HALF BLOOD OR ADOPTION, OR A COMPANION OF ANY
19 OF THEM.

20 (v) ANY OTHER INDIVIDUAL OCCUPYING THE RESIDENCE OF THE INDIVIDUAL.

21 (b) WITH RESPECT TO A PERSON OTHER THAN AN INDIVIDUAL:

22 (i) ANOTHER PERSON THAT DIRECTLY OR INDIRECTLY CONTROLS, IS
23 CONTROLLED BY OR IS UNDER COMMON CONTROL WITH THE PERSON.

24 (ii) AN OFFICER, DIRECTOR, MANAGER, MEMBER, PARTNER, EMPLOYEE OR
25 TRUSTEE OR OTHER FIDUCIARY OF THE PERSON.

26 (iii) A COMPANION OF, OR AN INDIVIDUAL OCCUPYING THE RESIDENCE OF,
27 AN INDIVIDUAL DESCRIBED IN ITEM (i) OR (ii) OF THIS SUBDIVISION.

28 2. "COMPANION" MEANS:

29 (a) THE SPOUSE OF AN INDIVIDUAL.

30 (b) THE DOMESTIC PARTNER OF AN INDIVIDUAL.

31 (c) ANOTHER INDIVIDUAL IN A CIVIL UNION WITH AN INDIVIDUAL.

32 3. "COURT" MEANS THE SUPERIOR COURT.

33 4. "EXECUTORY CONTRACT" MEANS A CONTRACT, INCLUDING A LEASE, UNDER
34 WHICH EACH PARTY HAS AN UNPERFORMED OBLIGATION AND THE FAILURE OF A PARTY
35 TO COMPLETE PERFORMANCE WOULD CONSTITUTE A MATERIAL BREACH.

36 5. "GOVERNMENTAL UNIT" MEANS AN OFFICE, DEPARTMENT, DIVISION,
37 BUREAU, BOARD, COMMISSION OR OTHER AGENCY OF THIS STATE OR A SUBDIVISION
38 OF THIS STATE.

39 6. "LIEN" MEANS AN INTEREST IN PROPERTY THAT SECURES PAYMENT OR
40 PERFORMANCE OF AN OBLIGATION.

41 7. "MORTGAGE" MEANS A RECORD, HOWEVER DENOMINATED, THAT CREATES OR
42 PROVIDES FOR A CONSENSUAL LIEN ON REAL PROPERTY OR RENTS, EVEN IF IT ALSO
43 CREATES OR PROVIDES FOR A LIEN ON PERSONAL PROPERTY.

44 8. "MORTGAGEE" MEANS A PERSON ENTITLED TO ENFORCE AN OBLIGATION
45 SECURED BY A MORTGAGE.

1 9. "MORTGAGOR" MEANS A PERSON THAT GRANTS A MORTGAGE OR A SUCCESSOR
2 IN OWNERSHIP OF THE REAL PROPERTY DESCRIBED IN THE MORTGAGE.

3 10. "OWNER" MEANS THE PERSON FOR WHOSE PROPERTY A RECEIVER IS
4 APPOINTED.

5 11. "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR NONPROFIT
6 ENTITY, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION,
7 AGENCY, OR INSTRUMENTALITY, OR OTHER LEGAL ENTITY.

8 12. "PROCEEDS" MEANS THE FOLLOWING PROPERTY:

9 (a) WHATEVER IS ACQUIRED ON THE SALE, LEASE, LICENSE, EXCHANGE OR
10 OTHER DISPOSITION OF RECEIVERSHIP PROPERTY.

11 (b) WHATEVER IS COLLECTED ON, OR DISTRIBUTED ON ACCOUNT OF,
12 RECEIVERSHIP PROPERTY.

13 (c) RIGHTS ARISING OUT OF RECEIVERSHIP PROPERTY.

14 (d) TO THE EXTENT OF THE VALUE OF RECEIVERSHIP PROPERTY, CLAIMS
15 ARISING OUT OF THE LOSS, NONCONFORMITY, OR INTERFERENCE WITH THE USE OF,
16 DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE TO THE PROPERTY.

17 (e) TO THE EXTENT OF THE VALUE OF RECEIVERSHIP PROPERTY AND TO THE
18 EXTENT PAYABLE TO THE OWNER OR MORTGAGEE, INSURANCE PAYABLE BY REASON OF
19 THE LOSS OR NONCONFORMITY OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR
20 DAMAGE TO THE PROPERTY.

21 13. "PROPERTY" MEANS ALL OF A PERSON'S RIGHT, TITLE AND INTEREST,
22 BOTH LEGAL AND EQUITABLE, IN REAL AND PERSONAL PROPERTY, TANGIBLE AND
23 INTANGIBLE, WHEREVER LOCATED AND HOWEVER ACQUIRED. PROPERTY INCLUDES
24 PROCEEDS, PRODUCTS, OFFSPRING, RENTS OR PROFITS OF OR FROM THE PROPERTY.

25 14. "RECEIVER" MEANS A PERSON WHO IS APPOINTED BY THE COURT AS THE
26 COURT'S AGENT, AND SUBJECT TO THE COURT'S DIRECTION, TO TAKE POSSESSION
27 OF, MANAGE, AND, IF AUTHORIZED BY THIS CHAPTER OR COURT ORDER, TRANSFER,
28 SELL, LEASE, LICENSE, EXCHANGE, COLLECT OR OTHERWISE DISPOSE OF
29 RECEIVERSHIP PROPERTY.

30 15. "RECEIVERSHIP" MEANS A PROCEEDING IN WHICH A RECEIVER IS
31 APPOINTED.

32 16. "RECEIVERSHIP PROPERTY" MEANS THE PROPERTY OF AN OWNER THAT IS
33 DESCRIBED IN THE ORDER APPOINTING A RECEIVER OR A SUBSEQUENT ORDER.
34 RECEIVERSHIP PROPERTY INCLUDES ANY PROCEEDS, PRODUCTS, OFFSPRING, RENTS,
35 OR PROFITS OF OR FROM THE PROPERTY.

36 17. "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS INSCRIBED
37 ON A TANGIBLE MEDIUM OR THAT IS STORED ON AN ELECTRONIC OR OTHER MEDIUM
38 AND IS RETRIEVABLE IN PERCEIVABLE FORM.

39 18. "RENTS" MEANS:

40 (a) SUMS PAYABLE FOR THE RIGHT TO POSSESS OR OCCUPY, OR FOR THE
41 ACTUAL POSSESSION OR OCCUPATION OF, REAL PROPERTY OF ANOTHER PERSON.

42 (b) SUMS PAYABLE TO A MORTGAGOR UNDER A POLICY OF
43 RENTAL-INTERRUPTION INSURANCE COVERING REAL PROPERTY.

44 (c) CLAIMS ARISING OUT OF A DEFAULT IN THE PAYMENT OF SUMS PAYABLE
45 FOR THE RIGHT TO POSSESS OR OCCUPY REAL PROPERTY OF ANOTHER PERSON.

1 (d) SUMS PAYABLE TO TERMINATE AN AGREEMENT TO POSSESS OR OCCUPY
2 REAL PROPERTY OF ANOTHER PERSON.

3 (e) SUMS PAYABLE TO A MORTGAGOR FOR PAYMENT OR REIMBURSEMENT OF
4 EXPENSES INCURRED IN OWNING, OPERATING AND MAINTAINING REAL PROPERTY OR
5 CONSTRUCTING OR INSTALLING IMPROVEMENTS ON REAL PROPERTY.

6 (f) OTHER SUMS PAYABLE UNDER AN AGREEMENT RELATING TO THE REAL
7 PROPERTY OF ANOTHER PERSON THAT CONSTITUTE RENTS UNDER LAW OF THIS STATE
8 OTHER THAN THIS CHAPTER.

9 19. "SECURED OBLIGATION" MEANS AN OBLIGATION THE PAYMENT OR
10 PERFORMANCE OF WHICH IS SECURED BY A SECURITY AGREEMENT.

11 20. "SECURITY AGREEMENT" MEANS AN AGREEMENT THAT CREATES OR
12 PROVIDES FOR A LIEN.

13 21. "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A
14 RECORD, EITHER:

15 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL.

16 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN
17 ELECTRONIC SOUND, SYMBOL OR PROCESS.

18 22. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
19 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS OR ANY TERRITORY
20 OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

21 33-2602. Notice and opportunity for hearing: exceptions

22 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION,
23 THE COURT MAY ISSUE AN ORDER UNDER THIS CHAPTER ONLY AFTER NOTICE AND
24 OPPORTUNITY FOR A HEARING APPROPRIATE IN THE CIRCUMSTANCES.

25 B. THE COURT MAY ISSUE AN ORDER UNDER THIS CHAPTER:

26 1. WITHOUT PRIOR NOTICE IF THE CIRCUMSTANCES REQUIRE ISSUANCE OF AN
27 ORDER BEFORE NOTICE IS GIVEN.

28 2. AFTER NOTICE AND WITHOUT A PRIOR HEARING IF THE CIRCUMSTANCES
29 REQUIRE ISSUANCE OF AN ORDER BEFORE A HEARING IS HELD.

30 3. AFTER NOTICE AND WITHOUT A HEARING IF NO INTERESTED PARTY TIMELY
31 REQUESTS A HEARING.

32 33-2603. Scope: exclusions

33 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OR C OF THIS
34 SECTION, THIS CHAPTER APPLIES TO A RECEIVERSHIP FOR AN INTEREST IN
35 COMMERCIAL REAL PROPERTY AND ANY PERSONAL PROPERTY RELATED TO OR USED IN
36 OPERATING THE REAL PROPERTY.

37 B. THIS CHAPTER DOES NOT APPLY TO A RECEIVERSHIP FOR AN INTEREST IN
38 REAL PROPERTY IMPROVED BY ONE TO FOUR DWELLING UNITS UNLESS:

39 1. THE INTEREST IS USED FOR AGRICULTURAL, COMMERCIAL, INDUSTRIAL,
40 OR MINERAL-EXTRACTION PURPOSES, OTHER THAN INCIDENTAL USES BY AN OWNER
41 OCCUPYING THE PROPERTY AS THE OWNER'S PRIMARY RESIDENCE.

42 2. THE INTEREST SECURES AN OBLIGATION INCURRED AT A TIME WHEN THE
43 PROPERTY WAS USED OR PLANNED FOR USE FOR AGRICULTURAL, COMMERCIAL,
44 INDUSTRIAL OR MINERAL-EXTRACTION PURPOSES.

1 3. THE OWNER PLANNED OR IS PLANNING TO DEVELOP THE PROPERTY INTO
2 ONE OR MORE DWELLING UNITS TO BE SOLD OR LEASED IN THE ORDINARY COURSE OF
3 THE OWNER'S BUSINESS.

4 4. THE OWNER IS COLLECTING OR HAS THE RIGHT TO COLLECT RENTS OR
5 OTHER INCOME FROM THE PROPERTY FROM A PERSON OTHER THAN AN AFFILIATE OF
6 THE OWNER.

7 C. THIS CHAPTER DOES NOT APPLY TO A RECEIVERSHIP AUTHORIZED BY
8 ANOTHER LAW OTHER THAN THIS CHAPTER IN WHICH THE RECEIVER IS A
9 GOVERNMENTAL UNIT OR AN INDIVIDUAL ACTING IN AN OFFICIAL CAPACITY ON
10 BEHALF OF THE UNIT EXCEPT TO THE EXTENT PROVIDED BY LAW.

11 D. THIS CHAPTER DOES NOT LIMIT THE AUTHORITY OF A COURT TO APPOINT
12 A RECEIVER UNDER ANOTHER LAW OTHER THAN THIS CHAPTER.

13 E. UNLESS DISPLACED BY A PARTICULAR PROVISION OF THIS CHAPTER, THE
14 PRINCIPLES OF LAW AND EQUITY SUPPLEMENT THIS CHAPTER.

15 33-2604. Power of court

16 THE COURT THAT APPOINTS A RECEIVER UNDER THIS CHAPTER HAS EXCLUSIVE
17 JURISDICTION TO DIRECT THE RECEIVER AND DETERMINE ANY CONTROVERSY RELATED
18 TO THE RECEIVERSHIP OR RECEIVERSHIP PROPERTY.

19 33-2605. Appointment of receiver

20 A. THE COURT MAY APPOINT A RECEIVER:

21 1. BEFORE JUDGMENT, TO PROTECT A PARTY THAT DEMONSTRATES AN
22 APPARENT RIGHT, TITLE OR INTEREST IN REAL PROPERTY THAT IS THE SUBJECT OF
23 THE ACTION, IF THE PROPERTY OR ITS REVENUE-PRODUCING POTENTIAL:

24 (a) IS BEING SUBJECTED TO OR IS IN DANGER OF WASTE, LOSS,
25 DISSIPATION OR IMPAIRMENT.

26 (b) HAS BEEN OR IS ABOUT TO BE THE SUBJECT OF A VOIDABLE
27 TRANSACTION.

28 (c) NEEDS TO BE PROTECTED AND PRESERVED OR IF THE RIGHTS OF THE
29 PARTIES NEED TO BE PROTECTED AND PRESERVED, EVEN IF THE ACTION DOES NOT
30 INCLUDE ANY OTHER CLAIM FOR RELIEF.

31 2. AFTER JUDGMENT:

32 (a) TO CARRY THE JUDGMENT INTO EFFECT.

33 (b) TO PRESERVE NONEXEMPT REAL PROPERTY PENDING APPEAL OR WHEN AN
34 EXECUTION HAS BEEN RETURNED UNSATISFIED AND THE OWNER REFUSES TO APPLY THE
35 PROPERTY IN SATISFACTION OF THE JUDGMENT.

36 3. IN AN ACTION IN WHICH A RECEIVER FOR REAL PROPERTY MAY BE
37 APPOINTED ON EQUITABLE GROUNDS.

38 4. DURING ANY TIME ALLOWED FOR REDEMPTION, TO PRESERVE REAL
39 PROPERTY SOLD IN AN EXECUTION OR FORECLOSURE SALE AND TO SECURE ITS RENTS
40 TO THE PERSON ENTITLED TO THE RENTS.

41 B. IN CONNECTION WITH THE FORECLOSURE OR OTHER ENFORCEMENT OF A
42 MORTGAGE, THE COURT MAY APPOINT A RECEIVER FOR THE MORTGAGED PROPERTY IF:

43 1. APPOINTMENT IS NECESSARY TO PROTECT THE PROPERTY FROM WASTE,
44 LOSS, TRANSFER, DISSIPATION OR IMPAIRMENT.

1 2. THE MORTGAGOR AGREED IN A SIGNED RECORD TO APPOINTMENT OF A
2 RECEIVER ON DEFAULT.

3 3. THE OWNER AGREED, AFTER DEFAULT AND IN A SIGNED RECORD, TO
4 APPOINTMENT OF A RECEIVER.

5 4. THE PROPERTY AND ANY OTHER COLLATERAL HELD BY THE MORTGAGEE ARE
6 NOT SUFFICIENT TO SATISFY THE SECURED OBLIGATION.

7 5. THE OWNER FAILS TO TURN OVER TO THE MORTGAGEE PROCEEDS OR RENTS
8 THE MORTGAGEE WAS ENTITLED TO COLLECT.

9 6. THE HOLDER OF A SUBORDINATE LIEN OBTAINS APPOINTMENT OF A
10 RECEIVER FOR THE PROPERTY.

11 7. THE PROPERTY OR THE RIGHTS OF THE PARTIES NEED TO BE PROTECTED
12 AND PRESERVED, EVEN IF THE ACTION DOES NOT INCLUDE ANY OTHER CLAIM FOR
13 RELIEF.

14 33-2606. Disqualification from appointment as a receiver;
15 exceptions; nomination

16 A. THE COURT MAY NOT APPOINT A PERSON AS RECEIVER UNLESS THE PERSON
17 SUBMITS TO THE COURT A STATEMENT UNDER PENALTY OF PERJURY THAT THE PERSON
18 IS NOT DISQUALIFIED.

19 B. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C OF THIS SECTION, A
20 PERSON IS DISQUALIFIED FROM APPOINTMENT AS RECEIVER IF THE PERSON:

21 1. IS AN AFFILIATE OF A PARTY.

22 2. HAS AN INTEREST MATERIALLY ADVERSE TO AN INTEREST OF A PARTY.

23 3. HAS A MATERIAL FINANCIAL INTEREST IN THE OUTCOME OF THE ACTION,
24 OTHER THAN COMPENSATION THE COURT MAY ALLOW THE RECEIVER.

25 4. HAS A DEBTOR-CREDITOR RELATIONSHIP WITH A PARTY.

26 5. HOLDS AN EQUITY INTEREST IN A PARTY, OTHER THAN A NONCONTROLLING
27 INTEREST IN A PUBLICLY TRADED COMPANY.

28 C. A PERSON IS NOT DISQUALIFIED FROM APPOINTMENT AS RECEIVER SOLELY
29 BECAUSE THE PERSON:

30 1. WAS APPOINTED RECEIVER OR IS OWED COMPENSATION IN AN UNRELATED
31 MATTER INVOLVING A PARTY OR WAS ENGAGED BY A PARTY IN A MATTER UNRELATED
32 TO THE RECEIVERSHIP.

33 2. IS AN INDIVIDUAL OBLIGATED TO A PARTY ON A DEBT THAT IS NOT IN
34 DEFAULT AND WAS INCURRED PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD
35 PURPOSES.

36 3. MAINTAINS WITH A PARTY A DEPOSIT ACCOUNT AS DEFINED IN SECTION
37 47-9102.

38 D. A PERSON SEEKING THE APPOINTMENT OF A RECEIVER MAY NOMINATE A
39 PERSON TO SERVE AS RECEIVER.

40 33-2607. Receiver's bond; alternative security

41 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, A
42 RECEIVER SHALL POST WITH THE COURT A BOND THAT:

43 1. IS CONDITIONED ON THE FAITHFUL DISCHARGE OF THE RECEIVER'S
44 DUTIES.

45 2. HAS ONE OR MORE SURETIES APPROVED BY THE COURT.

1 3. IS IN AN AMOUNT THE COURT SPECIFIES.

2 4. IS EFFECTIVE AS OF THE DATE OF THE RECEIVER'S APPOINTMENT.

3 B. THE COURT MAY APPROVE THE POSTING BY A RECEIVER WITH THE COURT
4 OF ALTERNATIVE SECURITY, SUCH AS A LETTER OF CREDIT OR DEPOSIT OF FUNDS.
5 THE RECEIVER MAY NOT USE RECEIVERSHIP PROPERTY AS ALTERNATIVE SECURITY.
6 INTEREST THAT ACCRUES ON DEPOSITED FUNDS MUST BE PAID TO THE RECEIVER ON
7 THE RECEIVER'S DISCHARGE.

8 C. THE COURT MAY AUTHORIZE A RECEIVER TO ACT BEFORE THE RECEIVER
9 POSTS THE BOND OR ALTERNATIVE SECURITY REQUIRED BY THIS SECTION.

10 33-2608. Status of receiver as lien creditor

11 ON APPOINTMENT OF A RECEIVER, THE RECEIVER HAS THE STATUS OF A LIEN
12 CREDITOR UNDER THE UNIFORM COMMERCIAL CODE, TITLE 47, CHAPTER 9, AS TO
13 RECEIVERSHIP PROPERTY THAT IS PERSONAL PROPERTY OR FIXTURES AND CHAPTER 7,
14 ARTICLE 5 OF THIS TITLE AS TO RECEIVERSHIP PROPERTY THAT IS REAL PROPERTY.

15 33-2609. Security agreement covering after-acquired property

16 EXCEPT AS OTHERWISE PROVIDED BY LAW, PROPERTY THAT A RECEIVER OR
17 OWNER ACQUIRES AFTER APPOINTMENT OF THE RECEIVER IS SUBJECT TO A SECURITY
18 AGREEMENT ENTERED INTO BEFORE THE APPOINTMENT TO THE SAME EXTENT AS IF THE
19 COURT HAD NOT APPOINTED THE RECEIVER.

20 33-2610. Collection and turnover of receivership property

21 A. UNLESS THE COURT ORDERS OTHERWISE, ON DEMAND BY A RECEIVER:

22 1. A PERSON THAT OWES A DEBT THAT IS RECEIVERSHIP PROPERTY AND IS
23 MATURED OR PAYABLE ON DEMAND OR ON ORDER SHALL PAY THE DEBT TO OR ON THE
24 ORDER OF THE RECEIVER, EXCEPT TO THE EXTENT THE DEBT IS SUBJECT TO SETOFF
25 OR RECOUPMENT.

26 2. SUBJECT TO SUBSECTION C OF THIS SECTION, A PERSON THAT HAS
27 POSSESSION, CUSTODY OR CONTROL OF RECEIVERSHIP PROPERTY SHALL TURN THE
28 PROPERTY OVER TO THE RECEIVER.

29 B. A PERSON THAT HAS NOTICE OF THE APPOINTMENT OF A RECEIVER AND
30 OWES A DEBT THAT IS RECEIVERSHIP PROPERTY MAY NOT SATISFY THE DEBT BY
31 PAYMENT TO THE OWNER.

32 C. IF A CREDITOR HAS POSSESSION, CUSTODY OR CONTROL OF RECEIVERSHIP
33 PROPERTY AND THE VALIDITY, PERFECTION OR PRIORITY OF THE CREDITOR'S LIEN
34 ON THE PROPERTY DEPENDS ON THE CREDITOR'S POSSESSION, CUSTODY OR CONTROL,
35 THE CREDITOR MAY RETAIN POSSESSION, CUSTODY OR CONTROL UNTIL THE COURT
36 ORDERS ADEQUATE PROTECTION OF THE CREDITOR'S LIEN.

37 D. UNLESS A BONA FIDE DISPUTE EXISTS ABOUT A RECEIVER'S RIGHT TO
38 POSSESSION, CUSTODY OR CONTROL OF RECEIVERSHIP PROPERTY, THE COURT MAY
39 SANCTION AS CIVIL CONTEMPT A PERSON'S FAILURE TO TURN THE PROPERTY OVER
40 WHEN REQUIRED BY THIS SECTION.

41 33-2611. Powers and duties of receiver

42 A. EXCEPT AS LIMITED BY COURT ORDER OR ANOTHER LAW, A RECEIVER MAY:

43 1. COLLECT, CONTROL, MANAGE, CONSERVE AND PROTECT RECEIVERSHIP
44 PROPERTY.

- 1 2. OPERATE A BUSINESS CONSTITUTING RECEIVERSHIP PROPERTY, INCLUDING
2 PRESERVATION, USE, SALE, LEASE, LICENSE, EXCHANGE, COLLECTION OR
3 DISPOSITION OF THE PROPERTY IN THE ORDINARY COURSE OF BUSINESS.
- 4 3. IN THE ORDINARY COURSE OF BUSINESS, INCUR UNSECURED DEBT AND PAY
5 EXPENSES INCIDENTAL TO THE RECEIVER'S PRESERVATION, USE, SALE, LEASE,
6 LICENSE, EXCHANGE, COLLECTION OR DISPOSITION OF RECEIVERSHIP PROPERTY.
- 7 4. ASSERT A RIGHT, CLAIM, CAUSE OF ACTION OR DEFENSE OF THE OWNER
8 THAT RELATES TO RECEIVERSHIP PROPERTY.
- 9 5. SEEK AND OBTAIN INSTRUCTION FROM THE COURT CONCERNING
10 RECEIVERSHIP PROPERTY, EXERCISE OF THE RECEIVER'S POWERS AND PERFORMANCE
11 OF THE RECEIVER'S DUTIES.
- 12 6. ON SUBPOENA, COMPEL A PERSON TO SUBMIT TO EXAMINATION UNDER
13 OATH, OR TO PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED
14 RECORDS OR TANGIBLE THINGS, WITH RESPECT TO RECEIVERSHIP PROPERTY OR ANY
15 OTHER MATTER THAT MAY AFFECT ADMINISTRATION OF THE RECEIVERSHIP.
- 16 7. ENGAGE A PROFESSIONAL AS PROVIDED IN SECTION 33-2614.
- 17 8. APPLY TO A COURT OF ANOTHER STATE FOR APPOINTMENT AS ANCILLARY
18 RECEIVER WITH RESPECT TO RECEIVERSHIP PROPERTY LOCATED IN THAT STATE.
- 19 9. EXERCISE ANY POWER CONFERRED BY COURT ORDER, THIS CHAPTER OR
20 ANOTHER LAW OTHER THAN THIS CHAPTER.
- 21 B. WITH COURT APPROVAL, A RECEIVER MAY:
 - 22 1. INCUR DEBT FOR THE USE OR BENEFIT OF RECEIVERSHIP PROPERTY OTHER
23 THAN IN THE ORDINARY COURSE OF BUSINESS.
 - 24 2. MAKE IMPROVEMENTS TO RECEIVERSHIP PROPERTY.
 - 25 3. USE OR TRANSFER RECEIVERSHIP PROPERTY OTHER THAN IN THE ORDINARY
26 COURSE OF BUSINESS AS PROVIDED IN SECTION 33-2615.
 - 27 4. ADOPT OR REJECT AN EXECUTORY CONTRACT OF THE OWNER AS PROVIDED
28 IN SECTION 33-2616.
 - 29 5. PAY COMPENSATION TO THE RECEIVER AS PROVIDED IN SECTION 33-2619,
30 AND TO EACH PROFESSIONAL ENGAGED BY THE RECEIVER AS PROVIDED IN SECTION
31 33-2614.
- 32 C. A RECEIVER SHALL:
 - 33 1. PREPARE AND RETAIN APPROPRIATE BUSINESS RECORDS, INCLUDING A
34 RECORD OF EACH RECEIPT, DISBURSEMENT AND DISPOSITION OF RECEIVERSHIP
35 PROPERTY.
 - 36 2. ACCOUNT FOR RECEIVERSHIP PROPERTY, INCLUDING THE PROCEEDS OF A
37 SALE, LEASE, LICENSE, EXCHANGE, COLLECTION OR OTHER DISPOSITION OF THE
38 PROPERTY.
 - 39 3. RECORD IN THE OFFICE OF THE COUNTY RECORDER A COPY OF THE ORDER
40 APPOINTING THE RECEIVER AND, IF A LEGAL DESCRIPTION OF THE REAL PROPERTY
41 IS NOT INCLUDED IN THE ORDER, THE LEGAL DESCRIPTION.
 - 42 4. DISCLOSE TO THE COURT ANY FACT ARISING DURING THE RECEIVERSHIP
43 THAT WOULD DISQUALIFY THE RECEIVER UNDER SECTION 33-2606.
 - 44 5. PERFORM ANY DUTY IMPOSED BY COURT ORDER, THIS CHAPTER OR ANOTHER
45 LAW OTHER THAN THIS CHAPTER.

1 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE POWERS
2 AND DUTIES OF A RECEIVER MAY BE EXPANDED, MODIFIED, OR LIMITED BY COURT
3 ORDER.

4 33-2612. Duties of owner

5 A. AN OWNER SHALL:

6 1. ASSIST AND COOPERATE WITH THE RECEIVER IN THE ADMINISTRATION OF
7 THE RECEIVERSHIP AND THE DISCHARGE OF THE RECEIVER'S DUTIES.

8 2. PRESERVE AND TURN OVER TO THE RECEIVER ALL RECEIVERSHIP PROPERTY
9 IN THE OWNER'S POSSESSION, CUSTODY OR CONTROL.

10 3. IDENTIFY ALL RECORDS AND OTHER INFORMATION RELATING TO THE
11 RECEIVERSHIP PROPERTY, INCLUDING PASSWORDS, AUTHORIZATIONS OR OTHER
12 INFORMATION NEEDED TO OBTAIN OR MAINTAIN ACCESS TO OR CONTROL OF THE
13 RECEIVERSHIP PROPERTY AND MAKE AVAILABLE TO THE RECEIVER THE RECORDS AND
14 INFORMATION IN THE OWNER'S POSSESSION, CUSTODY OR CONTROL.

15 4. ON SUBPOENA, SUBMIT TO EXAMINATION UNDER OATH BY THE RECEIVER
16 CONCERNING THE ACTS, CONDUCT, PROPERTY, LIABILITIES AND FINANCIAL
17 CONDITION OF THE OWNER OR ANY MATTER RELATING TO THE RECEIVERSHIP PROPERTY
18 OR THE RECEIVERSHIP.

19 5. PERFORM ANY DUTY IMPOSED BY COURT ORDER, THIS CHAPTER OR ANOTHER
20 LAW OTHER THAN THIS CHAPTER.

21 B. IF AN OWNER IS A PERSON OTHER THAN AN INDIVIDUAL, THIS SECTION
22 APPLIES TO EACH OFFICER, DIRECTOR, MANAGER, MEMBER, PARTNER, TRUSTEE OR
23 OTHER PERSON EXERCISING OR HAVING THE POWER TO EXERCISE CONTROL OVER THE
24 AFFAIRS OF THE OWNER.

25 C. IF A PERSON KNOWINGLY FAILS TO PERFORM A DUTY IMPOSED BY THIS
26 SECTION, THE COURT MAY:

27 1. AWARD THE RECEIVER ACTUAL DAMAGES CAUSED BY THE PERSON'S
28 FAILURE, REASONABLE ATTORNEY FEES AND COSTS.

29 2. SANCTION THE FAILURE AS CIVIL CONTEMPT.

30 33-2613. Stay; injunction

31 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION D OF THIS SECTION OR
32 ORDERED BY THE COURT, AN ORDER APPOINTING A RECEIVER OPERATES AS A STAY,
33 APPLICABLE TO ALL PERSONS, OF AN ACT, ACTION OR PROCEEDING:

34 1. TO OBTAIN POSSESSION OF, EXERCISE CONTROL OVER OR ENFORCE A
35 JUDGMENT AGAINST RECEIVERSHIP PROPERTY.

36 2. TO ENFORCE A LIEN AGAINST RECEIVERSHIP PROPERTY TO THE EXTENT
37 THE LIEN SECURES A CLAIM AGAINST THE OWNER THAT AROSE BEFORE ENTRY OF THE
38 ORDER.

39 B. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION D OF THIS SECTION,
40 THE COURT MAY ENJOIN AN ACT, ACTION OR PROCEEDING AGAINST OR RELATING TO
41 RECEIVERSHIP PROPERTY IF THE INJUNCTION IS NECESSARY TO PROTECT THE
42 PROPERTY OR FACILITATE ADMINISTRATION OF THE RECEIVERSHIP.

43 C. A PERSON WHOSE ACT, ACTION OR PROCEEDING IS STAYED OR ENJOINED
44 UNDER THIS SECTION MAY APPLY TO THE COURT FOR RELIEF FROM THE STAY OR
45 INJUNCTION FOR CAUSE.

1 D. AN ORDER UNDER SUBSECTION A OR B OF SECTION DOES NOT OPERATE AS
2 A STAY OR INJUNCTION OF:

3 1. AN ACT, ACTION OR PROCEEDING TO FORECLOSE OR OTHERWISE ENFORCE A
4 MORTGAGE BY THE PERSON SEEKING APPOINTMENT OF THE RECEIVER.

5 2. AN ACT, ACTION OR PROCEEDING TO PERFECT, OR MAINTAIN OR CONTINUE
6 THE PERFECTION OF, AN INTEREST IN RECEIVERSHIP PROPERTY.

7 3. COMMENCEMENT OR CONTINUATION OF A CRIMINAL PROCEEDING.

8 4. COMMENCEMENT OR CONTINUATION OF AN ACTION OR PROCEEDING, OR
9 ENFORCEMENT OF A JUDGMENT OTHER THAN A MONEY JUDGMENT IN AN ACTION OR
10 PROCEEDING, BY A GOVERNMENTAL UNIT TO ENFORCE ITS POLICE OR REGULATORY
11 POWER.

12 5. ESTABLISHMENT BY A GOVERNMENTAL UNIT OF A TAX LIABILITY AGAINST
13 THE OWNER OR RECEIVERSHIP PROPERTY OR AN APPEAL OF THE LIABILITY.

14 E. THE COURT MAY VOID AN ACT THAT VIOLATES A STAY OR INJUNCTION
15 UNDER THIS SECTION.

16 F. IF A PERSON KNOWINGLY VIOLATES A STAY OR INJUNCTION UNDER THIS
17 SECTION, THE COURT MAY:

18 1. AWARD ACTUAL DAMAGES CAUSED BY THE VIOLATION, REASONABLE
19 ATTORNEY'S FEES AND COSTS.

20 2. SANCTION THE VIOLATION AS CIVIL CONTEMPT.

21 33-2614. Engagement and compensation of professional

22 A. WITH COURT APPROVAL, A RECEIVER MAY ENGAGE AN ATTORNEY,
23 ACCOUNTANT, APPRAISER, AUCTIONEER, BROKER OR OTHER PROFESSIONAL TO ASSIST
24 THE RECEIVER IN PERFORMING A DUTY OR EXERCISING A POWER OF THE RECEIVER.
25 THE RECEIVER SHALL DISCLOSE TO THE COURT:

26 1. THE IDENTITY AND QUALIFICATIONS OF THE PROFESSIONAL.

27 2. THE SCOPE AND NATURE OF THE PROPOSED ENGAGEMENT.

28 3. ANY POTENTIAL CONFLICT OF INTEREST.

29 4. THE PROPOSED COMPENSATION.

30 B. A PERSON IS NOT DISQUALIFIED FROM ENGAGEMENT UNDER THIS SECTION
31 SOLELY BECAUSE OF THE PERSON'S ENGAGEMENT BY, REPRESENTATION OF, OR OTHER
32 RELATIONSHIP WITH THE RECEIVER, A CREDITOR OR A PARTY. THIS CHAPTER DOES
33 NOT PREVENT THE RECEIVER FROM SERVING IN THE RECEIVERSHIP AS AN ATTORNEY,
34 ACCOUNTANT, AUCTIONEER OR BROKER WHEN AUTHORIZED BY LAW.

35 C. A RECEIVER OR PROFESSIONAL ENGAGED UNDER SUBSECTION A OF THIS
36 SECTION SHALL FILE WITH THE COURT AN ITEMIZED STATEMENT OF THE TIME SPENT,
37 WORK PERFORMED AND BILLING RATE OF EACH PERSON THAT PERFORMED THE WORK AND
38 AN ITEMIZED LIST OF EXPENSES. TO THE EXTENT THE RECEIVERSHIP HAS
39 SUFFICIENT ASSETS, THE RECEIVER SHALL PAY THE AMOUNT APPROVED BY THE
40 COURT.

41 33-2615. Use or transfer of receivership property not in the
42 ordinary course of business; definition

43 A. WITH COURT APPROVAL, A RECEIVER MAY USE RECEIVERSHIP PROPERTY
44 OTHER THAN IN THE ORDINARY COURSE OF BUSINESS.

1 B. WITH COURT APPROVAL, A RECEIVER MAY TRANSFER RECEIVERSHIP
2 PROPERTY OTHER THAN IN THE ORDINARY COURSE OF BUSINESS BY SALE, LEASE,
3 LICENSE, EXCHANGE OR OTHER DISPOSITION. UNLESS THE AGREEMENT OF SALE
4 PROVIDES OTHERWISE, A SALE UNDER THIS SECTION IS FREE AND CLEAR OF A LIEN
5 OF THE PERSON THAT OBTAINED APPOINTMENT OF THE RECEIVER, ANY SUBORDINATE
6 LIEN AND ANY RIGHT OF REDEMPTION BUT IS SUBJECT TO A SENIOR LIEN.

7 C. A LIEN ON RECEIVERSHIP PROPERTY THAT IS EXTINGUISHED BY A
8 TRANSFER UNDER SUBSECTION B OF THIS SECTION ATTACHES TO THE PROCEEDS OF
9 THE TRANSFER WITH THE SAME VALIDITY, PERFECTION, AND PRIORITY THE LIEN HAD
10 ON THE PROPERTY IMMEDIATELY BEFORE THE TRANSFER, EVEN IF THE PROCEEDS ARE
11 NOT SUFFICIENT TO SATISFY ALL OBLIGATIONS SECURED BY THE LIEN.

12 D. A TRANSFER UNDER SUBSECTION A OR B OF THIS SECTION MAY OCCUR BY
13 MEANS OTHER THAN A PUBLIC AUCTION SALE. A CREDITOR HOLDING A VALID LIEN
14 ON THE PROPERTY TO BE TRANSFERRED MAY PURCHASE THE PROPERTY AND OFFSET
15 AGAINST THE PURCHASE PRICE PART OR ALL OF THE ALLOWED AMOUNT SECURED BY
16 THE LIEN, IF THE CREDITOR TENDERS FUNDS SUFFICIENT TO SATISFY IN FULL THE
17 REASONABLE EXPENSES OF TRANSFER. THE PROPERTY TRANSFERRED IS SUBJECT TO
18 ANY SENIOR LIEN UNLESS EXTINGUISHED BY THE TRANSFER.

19 E. A REVERSAL OR MODIFICATION OF AN ORDER APPROVING A TRANSFER
20 UNDER SUBSECTION A OR B OF THIS SECTION DOES NOT AFFECT THE VALIDITY OF
21 THE TRANSFER TO A PERSON THAT ACQUIRED THE PROPERTY IN GOOD FAITH OR
22 REVIVE AGAINST THE PERSON ANY LIEN EXTINGUISHED BY THE TRANSFER, WHETHER
23 THE PERSON KNEW BEFORE THE TRANSFER OF THE REQUEST FOR REVERSAL OR
24 MODIFICATION, UNLESS THE COURT STAYED THE ORDER BEFORE THE TRANSFER.

25 F. FOR THE PURPOSES OF THIS SECTION, "GOOD FAITH" MEANS HONESTY IN
26 FACT AND THE OBSERVANCE OF REASONABLE COMMERCIAL STANDARDS OF FAIR
27 DEALING.

28 33-2616. Executory contract; definition

29 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION G OF THIS SECTION,
30 WITH COURT APPROVAL, A RECEIVER MAY ADOPT OR REJECT AN EXECUTORY CONTRACT
31 OF THE OWNER RELATING TO RECEIVERSHIP PROPERTY. THE COURT MAY CONDITION
32 THE RECEIVER'S ADOPTION AND CONTINUED PERFORMANCE OF THE CONTRACT ON TERMS
33 APPROPRIATE UNDER THE CIRCUMSTANCES.

34 B. A RECEIVER'S PERFORMANCE OF AN EXECUTORY CONTRACT BEFORE COURT
35 APPROVAL UNDER SUBSECTION A OF THIS SECTION OF ITS ADOPTION OR REJECTION
36 IS NOT AN ADOPTION OF THE CONTRACT AND DOES NOT PRECLUDE THE RECEIVER FROM
37 SEEKING APPROVAL TO REJECT THE CONTRACT.

38 C. A PROVISION IN AN EXECUTORY CONTRACT WHICH REQUIRES OR PERMITS A
39 FORFEITURE, MODIFICATION, OR TERMINATION OF THE CONTRACT BECAUSE OF THE
40 APPOINTMENT OF A RECEIVER OR THE FINANCIAL CONDITION OF THE OWNER DOES NOT
41 AFFECT A RECEIVER'S POWER UNDER SUBSECTION A OF THIS SECTION TO ADOPT THE
42 CONTRACT.

43 D. A RECEIVER'S RIGHT TO POSSESS OR USE RECEIVERSHIP PROPERTY
44 PURSUANT TO AN EXECUTORY CONTRACT TERMINATES ON REJECTION OF THE CONTRACT
45 UNDER SUBSECTION A OF THIS SECTION. REJECTION IS A BREACH OF THE CONTRACT

1 EFFECTIVE IMMEDIATELY BEFORE APPOINTMENT OF THE RECEIVER. A CLAIM FOR
2 DAMAGES FOR REJECTION OF THE CONTRACT MUST BE SUBMITTED BY THE LATER OF:

- 3 1. THE TIME SET FOR SUBMITTING A CLAIM IN THE RECEIVERSHIP.
- 4 2. THIRTY DAYS AFTER THE COURT APPROVES THE REJECTION.

5 E. IF AT THE TIME A RECEIVER IS APPOINTED, THE OWNER HAS THE RIGHT
6 TO ASSIGN AN EXECUTORY CONTRACT RELATING TO RECEIVERSHIP PROPERTY UNDER
7 ANOTHER LAW OTHER THAN THIS CHAPTER, THE RECEIVER MAY ASSIGN THE CONTRACT
8 WITH COURT APPROVAL.

9 F. IF A RECEIVER REJECTS UNDER SUBSECTION A OF THIS SECTION AN
10 EXECUTORY CONTRACT FOR THE SALE OF RECEIVERSHIP PROPERTY THAT IS REAL
11 PROPERTY IN POSSESSION OF THE PURCHASER OR A REAL-PROPERTY TIMESHARE
12 INTEREST, THE PURCHASER MAY:

13 1. TREAT THE REJECTION AS A TERMINATION OF THE CONTRACT, AND IN
14 THAT CASE THE PURCHASER HAS A LIEN ON THE PROPERTY FOR THE RECOVERY OF ANY
15 PART OF THE PURCHASE PRICE THE PURCHASER PAID.

16 2. RETAIN THE PURCHASER'S RIGHT TO POSSESSION UNDER THE CONTRACT,
17 AND IN THAT CASE THE PURCHASER SHALL CONTINUE TO PERFORM ALL OBLIGATIONS
18 ARISING UNDER THE CONTRACT AND MAY OFFSET ANY DAMAGES CAUSED BY
19 NONPERFORMANCE OF AN OBLIGATION OF THE OWNER AFTER THE DATE OF THE
20 REJECTION, BUT THE PURCHASER HAS NO RIGHT OR CLAIM AGAINST OTHER
21 RECEIVERSHIP PROPERTY OR THE RECEIVER ON ACCOUNT OF THE DAMAGES. IF THE
22 PURCHASER RETAINS THE PURCHASER'S RIGHTS TO POSSESSION, THE COURT MAY
23 ORDER THE RECEIVER TO DELIVER TITLE TO THE PURCHASER IN ACCORDANCE WITH
24 THE PROVISIONS OF THE CONTRACT AND RELIEVE THE RECEIVER OF ALL OTHER
25 OBLIGATIONS UNDER THE CONTRACT.

26 G. A RECEIVER MAY NOT REJECT AN UNEXPIRED LEASE OF REAL PROPERTY
27 UNDER WHICH THE OWNER IS THE LANDLORD IF THE TENANT OCCUPIES THE LEASED
28 PREMISES AS THE TENANT'S PRIMARY RESIDENCE AND EITHER OF THE FOLLOWING
29 APPLIES:

30 1. THE RECEIVER WAS APPOINTED AT THE REQUEST OF A PERSON OTHER THAN
31 A MORTGAGEE.

32 2. THE RECEIVER WAS APPOINTED AT THE REQUEST OF A MORTGAGEE AND
33 EITHER:

34 (a) ALL OF THE FOLLOWING APPLY:

35 (i) THE LEASE IS SUPERIOR TO THE LIEN OF THE MORTGAGE.

36 (ii) THE TENANT HAS AN ENFORCEABLE AGREEMENT WITH THE MORTGAGEE OR
37 THE HOLDER OF A SENIOR LIEN UNDER WHICH THE TENANT'S OCCUPANCY WILL NOT BE
38 DISTURBED AS LONG AS THE TENANT PERFORMS ITS OBLIGATIONS UNDER THE LEASE.

39 (iii) THE MORTGAGEE HAS CONSENTED TO THE LEASE, EITHER IN A SIGNED
40 RECORD OR BY ITS FAILURE TIMELY TO OBJECT THAT THE LEASE VIOLATED THE
41 MORTGAGE.

42 (b) THE TERMS OF THE LEASE WERE COMMERCIALY REASONABLE AT THE TIME
43 THE LEASE WAS AGREED TO AND THE TENANT DID NOT ACTUALLY KNOW OR HAVE
44 REASON TO CONSTRUCTIVELY KNOW THAT THE LEASE VIOLATED THE MORTGAGE.

1 H. FOR THE PURPOSES OF THIS SECTION, "TIMESHARE INTEREST" MEANS AN
2 INTEREST HAVING A DURATION OF MORE THAN THREE YEARS WHICH GRANTS ITS
3 HOLDER THE RIGHT TO USE AND OCCUPY AN ACCOMMODATION, FACILITY, OR
4 RECREATIONAL SITE, WHETHER IMPROVED OR NOT, FOR A SPECIFIC PERIOD LESS
5 THAN A FULL YEAR DURING ANY GIVEN YEAR.

6 33-2617. Defenses and immunities of receiver

7 A. A RECEIVER IS ENTITLED TO ALL DEFENSES AND IMMUNITIES PROVIDED
8 BY A LAW OTHER THAN THIS CHAPTER FOR AN ACT OR OMISSION WITHIN THE SCOPE
9 OF THE RECEIVER'S APPOINTMENT.

10 B. A RECEIVER MAY BE SUED PERSONALLY FOR AN ACT OR OMISSION IN
11 ADMINISTERING RECEIVERSHIP PROPERTY ONLY WITH APPROVAL OF THE COURT THAT
12 APPOINTED THE RECEIVER AND IF THE COURT FINDS THAT THE RECEIVER ACTED
13 WITHOUT AUTHORITY.

14 33-2618. Interim report of receiver

15 A RECEIVER MAY FILE OR, IF ORDERED BY THE COURT, SHALL FILE AN
16 INTERIM REPORT THAT INCLUDES:

- 17 1. THE ACTIVITIES OF THE RECEIVER SINCE APPOINTMENT OR A PREVIOUS
18 REPORT.
- 19 2. RECEIPTS AND DISBURSEMENTS, INCLUDING A PAYMENT MADE OR PROPOSED
20 TO BE MADE TO A PROFESSIONAL ENGAGED BY THE RECEIVER.
- 21 3. RECEIPTS AND DISPOSITIONS OF RECEIVERSHIP PROPERTY.
- 22 4. FEES AND EXPENSES OF THE RECEIVER AND, IF NOT FILED SEPARATELY,
23 A REQUEST FOR APPROVAL OF PAYMENT OF THE FEES AND EXPENSES.
- 24 5. ANY OTHER INFORMATION REQUIRED BY THE COURT.

25 33-2619. Fee and expenses

26 A. THE COURT MAY AWARD A RECEIVER FROM RECEIVERSHIP PROPERTY THE
27 REASONABLE AND NECESSARY FEES AND EXPENSES OF PERFORMING THE DUTIES OF THE
28 RECEIVER AND EXERCISING THE POWERS OF THE RECEIVER.

29 B. THE COURT MAY ORDER ONE OR MORE OF THE FOLLOWING TO PAY THE
30 REASONABLE AND NECESSARY FEES AND EXPENSES OF THE RECEIVERSHIP, INCLUDING
31 REASONABLE ATTORNEY FEES AND COSTS:

- 32 1. A PERSON THAT REQUESTED THE APPOINTMENT OF THE RECEIVER, IF THE
33 RECEIVERSHIP DOES NOT PRODUCE SUFFICIENT FUNDS TO PAY THE FEES AND
34 EXPENSES.
- 35 2. A PERSON WHOSE CONDUCT JUSTIFIED OR WOULD HAVE JUSTIFIED THE
36 APPOINTMENT OF THE RECEIVER UNDER SECTION 33-2605, SUBSECTION A,
37 PARAGRAPH 1.
- 38 3. ANY OTHER PERSON AS EQUITY JUSTIFIES.

39 33-2620. Removal of receiver; replacement; termination of
40 receivership

41 A. THE COURT MAY REMOVE A RECEIVER FOR CAUSE.

42 B. THE COURT SHALL REPLACE A RECEIVER THAT DIES, RESIGNS OR IS
43 REMOVED.

44 C. IF THE COURT FINDS THAT A RECEIVER THAT RESIGNS OR IS REMOVED,
45 OR THE REPRESENTATIVE OF A RECEIVER THAT IS DECEASED, HAS ACCOUNTED FULLY

1 FOR AND TURNED OVER TO THE SUCCESSOR RECEIVER ALL RECEIVERSHIP PROPERTY
2 AND HAS FILED A REPORT OF ALL RECEIPTS AND DISBURSEMENTS DURING THE
3 SERVICE OF THE REPLACED RECEIVER, THE REPLACED RECEIVER IS DISCHARGED.

4 D. THE COURT MAY DISCHARGE A RECEIVER AND TERMINATE THE COURT'S
5 ADMINISTRATION OF THE RECEIVERSHIP PROPERTY IF THE COURT FINDS THAT
6 APPOINTMENT OF THE RECEIVER WAS IMPROVIDENT OR THAT THE CIRCUMSTANCES NO
7 LONGER WARRANT CONTINUATION OF THE RECEIVERSHIP. IF THE COURT FINDS THAT
8 THE APPOINTMENT WAS SOUGHT WRONGFULLY OR IN BAD FAITH, THE COURT MAY
9 ASSESS AGAINST THE PERSON THAT SOUGHT THE APPOINTMENT:

10 1. THE FEES AND EXPENSES OF THE RECEIVERSHIP, INCLUDING REASONABLE
11 ATTORNEY FEES AND COSTS.

12 2. ACTUAL DAMAGES CAUSED BY THE APPOINTMENT, INCLUDING REASONABLE
13 ATTORNEY FEES AND COSTS.

14 33-2621. Final report of receiver; discharge

15 A. ON COMPLETION OF A RECEIVER'S DUTIES, THE RECEIVER SHALL FILE A
16 FINAL REPORT INCLUDING:

17 1. A DESCRIPTION OF THE ACTIVITIES OF THE RECEIVER IN THE CONDUCT
18 OF THE RECEIVERSHIP.

19 2. A LIST OF RECEIVERSHIP PROPERTY AT THE COMMENCEMENT OF THE
20 RECEIVERSHIP AND ANY RECEIVERSHIP PROPERTY RECEIVED DURING THE
21 RECEIVERSHIP.

22 3. A LIST OF DISBURSEMENTS, INCLUDING PAYMENTS TO PROFESSIONALS
23 ENGAGED BY THE RECEIVER.

24 4. A LIST OF DISPOSITIONS OF RECEIVERSHIP PROPERTY.

25 5. A LIST OF DISTRIBUTIONS MADE OR PROPOSED TO BE MADE FROM THE
26 RECEIVERSHIP FOR CREDITOR CLAIMS.

27 6. IF NOT FILED SEPARATELY, A REQUEST FOR APPROVAL OF THE PAYMENT
28 OF FEES AND EXPENSES OF THE RECEIVER.

29 7. ANY OTHER INFORMATION REQUIRED BY THE COURT.

30 B. IF THE COURT APPROVES A FINAL REPORT FILED UNDER SUBSECTION A OF
31 THIS SECTION AND THE RECEIVER DISTRIBUTES ALL RECEIVERSHIP PROPERTY, THE
32 RECEIVER IS DISCHARGED.

33 33-2622. Receivership in another state; ancillary proceeding

34 A. THE COURT MAY APPOINT A RECEIVER APPOINTED IN ANOTHER STATE, OR
35 THAT PERSON'S NOMINEE, AS AN ANCILLARY RECEIVER WITH RESPECT TO PROPERTY
36 LOCATED IN THIS STATE OR SUBJECT TO THE JURISDICTION OF THE COURT FOR
37 WHICH A RECEIVER COULD BE APPOINTED UNDER THIS CHAPTER, IF:

38 1. THE PERSON OR NOMINEE WOULD BE ELIGIBLE TO SERVE AS RECEIVER
39 UNDER SECTION 33-2606.

40 2. THE APPOINTMENT FURTHERS THE PERSON'S POSSESSION, CUSTODY,
41 CONTROL OR DISPOSITION OF PROPERTY SUBJECT TO THE RECEIVERSHIP IN THE
42 OTHER STATE.

43 B. THE COURT MAY ISSUE AN ORDER THAT GIVES EFFECT TO AN ORDER
44 ENTERED IN ANOTHER STATE APPOINTING OR DIRECTING A RECEIVER.

1 C. UNLESS THE COURT ORDERS OTHERWISE, AN ANCILLARY RECEIVER
2 APPOINTED UNDER SUBSECTION A OF THIS SECTION HAS THE RIGHTS, POWERS AND
3 DUTIES OF A RECEIVER APPOINTED UNDER THIS CHAPTER.

4 33-2623. Effect of enforcement by mortgagee

5 A REQUEST BY A MORTGAGEE FOR APPOINTMENT OF A RECEIVER, THE
6 APPOINTMENT OF A RECEIVER OR APPLICATION BY A MORTGAGEE OF RECEIVERSHIP
7 PROPERTY OR PROCEEDS TO THE SECURED OBLIGATION DOES NOT:

8 1. MAKE THE MORTGAGEE A MORTGAGEE IN POSSESSION OF THE REAL
9 PROPERTY.

10 2. MAKE THE MORTGAGEE AN AGENT OF THE OWNER

11 3. CONSTITUTE AN ELECTION OF REMEDIES THAT PRECLUDES A LATER ACTION
12 TO ENFORCE THE SECURED OBLIGATION.

13 4. MAKE THE SECURED OBLIGATION UNENFORCEABLE.

14 5. LIMIT ANY RIGHT AVAILABLE TO THE MORTGAGEE WITH RESPECT TO THE
15 SECURED OBLIGATION.

16 33-2624. Court's authority under this chapter

17 THE COURT MAY ISSUE ANY ORDER, PROCESS OR JUDGMENT THAT IS NECESSARY
18 OR APPROPRIATE TO CARRY OUT THIS CHAPTER.

19 33-2625. Uniformity of application and construction

20 IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
21 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS
22 SUBJECT MATTER AMONG STATES THAT ENACT IT.

23 33-2626. Relation to electronic signature in global and
24 national commerce act

25 THIS CHAPTER MODIFIES, LIMITS OR SUPERSEDES THE ELECTRONIC
26 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 UNITED STATES CODE
27 SECTIONS 7001 THROUGH 7031, BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE
28 SECTION 101(c) OF THAT ACT, 15 UNITED STATES CODE SECTION 7001(c) OR
29 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION
30 103(b) OF THAT ACT, 15 UNITED STATES CODE SECTION 7003(b).

31 Sec. 2. Applicability

32 This act does not apply to a receivership for which the receiver was
33 appointed before the effective date of this act.

34 Sec. 3. Short title

35 This act may be cited as the "Uniform Commercial Real Estate
36 Receivership Act".

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