



**Senate Fiscal Agency**  
**P. O. Box 30036**  
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BILL



ANALYSIS

**Telephone: (517) 373-5383**  
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House Bill 4470 (as reported without amendment)  
House Bill 4471 (Substitute S-1 as reported)  
Sponsor: Representative Brandt Iden  
House Committee: Judiciary  
Senate Committee: Judiciary

### **CONTENT**

House Bill 4471 (S-1) would enact the "Uniform Commercial Real Estate Receivership Act" to govern the appointment, powers, and judicial oversight of receivers for commercial property. The Act would apply to a receivership for an interest in real property and any personal property related to or used in operating the real property, and would do the following:

- Specify that the court that appointed a receiver would have exclusive jurisdiction to direct the receiver and determine any controversy related to the receivership or receivership property; and specify the conditions under which a court could appoint a receiver.
- Allow a court to issue an order only after notice and opportunity for a hearing appropriate for the situation.
- Prohibit the court from appointing a person as receiver unless the person submitted a statement that the person was not disqualified.
- Require a receiver to post with the court a bond or alternative security.
- Specify the powers and duties of a receiver.
- Require an owner to perform certain duties, including assisting and cooperating with the receiver in the administration of the receivership, and preserving and turning over to the receiver all receivership property in the owner's possession.
- Specify that an order appointing a receiver would operate as a stay, applicable to all entities, of an act, action, or proceeding to obtain possession of or enforce a judgment against receivership property, or enforce certain liens against receivership property.
- Allow a receiver, with court approval, to do the following; engage an attorney, accountant, appraiser, or other professional to assist the receiver; use or transfer receivership property other than in the ordinary course of business; and adopt or reject an executory contract of the owner relating to receivership property.
- Specify that a receiver would be entitled to all defenses and immunities provided by State law for an act or omission within the scope of the receiver's appointment.
- Require a receiver to give notice of the appointment to the owner's creditors by first-class mail or other reasonable delivery, and by publication as directed by the court.
- Allow the court to award a receiver, from receivership property, the reasonable and necessary fees and expenses of performing the duties the receiver.
- Require a receiver to file a final report with certain information, including a description of the receiver's activities during the receivership, a list of receivership property received and disposed of during the receivership, and any other information required by the court.
- Specify that a request by a mortgagee for appointment of a receiver, the appointment of a receiver, or application by a mortgagee of receivership property or proceeds to the secured obligation, would not make the mortgagee a mortgagee in possession of the real property or an agent of the owner, and would not make the secured obligation unenforceable.

House Bill 4470 would amend the Revised Judicature Act to specify that, for the purposes of foreclosure by advertisement, an action or proceeding for the appointment of a receiver would not be an action or proceeding to recover a debt.

MCL 600.3204 & 600.5807 (H.B. 4470)

Legislative Analyst: Jeff Mann

**FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Date Completed: 12-13-17

Fiscal Analyst: Ryan Bergan