

# HOUSE BILL NO. 5336

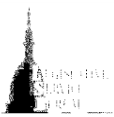
January 15, 2020, Introduced by Rep. Iden and referred to the Committee on Judiciary.

A bill to amend 2018 PA 16, entitled  
"Uniform commercial real estate receivership act,"  
by amending the title and sections 1, 2, 3, 4, 5, 6, 11, 12, 13,  
14, 15, 16, 18, 19, 20, 21, 24, and 25 (MCL 554.1011, 554.1012,  
554.1013, 554.1014, 554.1015, 554.1016, 554.1021, 554.1022,  
554.1023, 554.1024, 554.1025, 554.1026, 554.1028, 554.1029,  
554.1030, 554.1031, 554.1034, and 554.1035).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**

TITLE



TDR



02682'19

1       An act to enact the ~~uniform commercial real estate~~  
 2 receivership act; to provide for the appointment of receivers to  
 3 take possession of ~~commercial real~~ property of another and to  
 4 receive, collect, care for, and dispose of the property or proceeds  
 5 of the property; and to provide remedies related to the  
 6 receiverships.

7       Sec. 1. This act shall be known and may be cited as the  
 8 ~~"uniform commercial real estate receivership"~~ **"receivership act"**.

9       Sec. 2. As used in this act:

10       (a) **"Adequate assurance" means 1 or more of the following:**

11       (i) **That the receiver is required to make a cash payment or**  
 12 **periodic cash payments to a person to the extent that the use,**  
 13 **sale, lease, or other disposition under this act, the stay under**  
 14 **section 14, or the incurrence of debt under section 12(2) (a)**  
 15 **results in a decrease in the value of the person's interest in the**  
 16 **property.**

17       (ii) **That the person is provided a lien to the extent that the**  
 18 **use, sale, lease, stay, or incurrence results in a decrease in the**  
 19 **value of the person's interest in the property.**

20       (iii) **Other relief that will result in the realization by the**  
 21 **person of the indubitable equivalent of the person's interest in**  
 22 **the property.**

23       (b) **"Adequate protection" means that the court order provides**  
 24 **adequate assurance to the creditor.**

25       (c) ~~(a)~~ **"Affiliate" means all of the following:**

26       (i) **With respect to an individual, any of the following:**

27       (A) **A companion of the individual.**

28       (B) **A lineal ancestor or descendant, whether by blood or**  
 29 **adoption, of either of the following:**



1 (I) The individual.

2 (II) A companion of the individual.

3 (C) A companion of an ancestor or descendant described in sub-  
4 subparagraph (B).

5 (D) A sibling, aunt, uncle, great aunt, great uncle, first  
6 cousin, niece, nephew, grandniece, or grandnephew of the  
7 individual, whether related by the whole or the half blood or  
8 adoption, or a companion of any of them.

9 (E) Any other individual occupying the residence of the  
10 individual.

11 (ii) With respect to a person other than an individual, any of  
12 the following:

13 (A) Another person that directly or indirectly controls, is  
14 controlled by, or is under common control with the person.

15 (B) An officer, director, manager, member, partner, employee,  
16 or trustee or other fiduciary of the person.

17 (C) A companion of, or an individual occupying the residence  
18 of, an individual described in sub-subparagraph (A) or (B).

19 (d) ~~(b)~~—"Companion" means any of the following:

20 (i) The spouse of an individual.

21 (ii) The domestic partner of an individual.

22 (iii) Another individual in a civil union with an individual.

23 (e) ~~(c)~~—"Court" means the circuit court.

24 (f) **"Court rules" means the rules adopted by the supreme court**  
25 **under section 5 of article VI of the state constitution of 1963,**  
26 **including the most recent amendments.**

27 (g) ~~(d)~~—"Executory contract" means a contract, including a  
28 lease, under which each party has an unperformed obligation and the  
29 failure of a party to complete performance would constitute a



1 material breach.

2       **(h)** ~~(e)~~—"Governmental unit" means an office, department,  
3 division, bureau, board, commission, or other agency of this state  
4 or a subdivision of this state.

5       **(i)** ~~(f)~~—"Lien" means an interest in property that secures  
6 payment or performance of an obligation.

7       **(j)** ~~(g)~~—"Mortgage" means a record, however denominated, that  
8 creates or provides for a consensual lien on real property or  
9 rents, even if it also creates or provides for a lien on personal  
10 property.

11       **(k)** ~~(h)~~—"Mortgagee" means a person entitled to enforce an  
12 obligation secured by a mortgage.

13       **(l)** ~~(i)~~—"Mortgagor" means a person that grants a mortgage or a  
14 successor in ownership of the real property described in the  
15 mortgage.

16       **(m)** ~~(j)~~—"Owner" means the person for whose property a receiver  
17 is appointed.

18       **(n)** ~~(k)~~—"Person" means an individual, estate, business or  
19 nonprofit entity, public corporation, government or governmental  
20 subdivision, agency, or instrumentality, or other legal entity.

21       **(o)** ~~(l)~~—"Proceeds" means any of the following property:

22       (i) Whatever is acquired on the sale, lease, license, exchange,  
23 or other disposition of receivership property.

24       (ii) Whatever is collected on, or distributed on account of,  
25 receivership property.

26       (iii) Rights arising out of receivership property.

27       (iv) To the extent of the value of receivership property,  
28 claims arising out of the loss, nonconformity, or interference with  
29 the use of, defects or infringement of rights in, or damage to the



1 property.

2 (v) To the extent of the value of receivership property and to  
3 the extent payable to the owner or mortgagee, insurance payable by  
4 reason of the loss or nonconformity of, defects or infringement of  
5 rights in, or damage to the property.

6 (p) ~~(m)~~—"Property" means all of a person's right, title, and  
7 interest, both legal and equitable, in real ~~and~~ **property**, personal  
8 property, **and fixtures** tangible and intangible, wherever located  
9 and however acquired. The term includes proceeds, products,  
10 offspring, rents, or profits of or from the property.

11 (q) ~~(n)~~—"Receiver" means a person appointed by the court as  
12 the court's agent, and subject to the court's direction, to take  
13 possession of, manage, and, if authorized by this act or court  
14 order, transfer, sell, lease, license, exchange, collect, or  
15 otherwise dispose of receivership property.

16 (r) ~~(o)~~—"Receivership" means a proceeding in which a receiver  
17 is appointed.

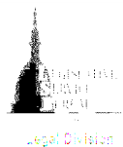
18 (s) ~~(p)~~—"Receivership property" means the property of an owner  
19 that is described in the order appointing a receiver or a  
20 subsequent order. The term includes any proceeds, products,  
21 offspring, rents, or profits of or from the property.

22 (t) ~~(q)~~—"Record", used as a noun, means information that is  
23 inscribed on a tangible medium or that is stored on an electronic  
24 or other medium and is retrievable in perceivable form.

25 (u) ~~(r)~~—"Rents" means all of the following:

26 (i) Sums payable for the right to possess or occupy, or for the  
27 actual possession or occupation of, real **or personal** property of  
28 another person.

29 (ii) Sums payable to a mortgagor under a policy of rental-



1 interruption insurance covering real property.

2 (iii) Claims arising out of a default in the payment of sums  
3 payable for the right to possess or occupy real property of another  
4 person.

5 (iv) Sums payable to terminate an agreement to possess or  
6 occupy real **or personal** property of another person.

7 (v) Sums payable to a mortgagor for payment or reimbursement  
8 of expenses incurred in owning, operating, and maintaining real  
9 property or constructing or installing improvements on real  
10 property.

11 (vi) Other sums payable under an agreement relating to the real  
12 **or personal** property of another person that constitute rents under  
13 law of this state other than this act.

14 (v) ~~(s)~~—"Secured obligation" means an obligation the payment  
15 or performance of which is secured by a security agreement.

16 (w) **"Secured party" means a person entitled to enforce a**  
17 **secured obligation or lien.**

18 (x) ~~(t)~~—"Security agreement" means an agreement that creates  
19 or provides for a lien, **including a mortgage.**

20 (y) ~~(u)~~—"Sign" means to do any of the following with present  
21 intent to authenticate or adopt a record:

22 (i) Execute or adopt a tangible symbol.

23 (ii) Attach to or logically associate with the record an  
24 electronic sound, symbol, or process.

25 (z) ~~(v)~~—"State" means a state of the United States, the  
26 District of Columbia, Puerto Rico, the United States Virgin  
27 Islands, or any territory or insular possession subject to the  
28 jurisdiction of the United States.

29 Sec. 3. (1) Except as otherwise provided in subsection (2),



1 the court may issue an order under this act only after notice and  
2 opportunity for a hearing appropriate in the circumstances.

3 (2) The court may issue an order under this act under the  
4 following circumstances:

5 (a) Without prior notice if ~~the circumstances~~ **cause exists to**  
6 require issuance of an order before notice is given.

7 (b) After notice and without a prior hearing if ~~the~~  
8 ~~circumstances~~ **cause exists to** require issuance of an order before a  
9 hearing is held.

10 (c) After notice and without a hearing if no interested party  
11 timely requests a hearing.

12 Sec. 4. (1) Except as otherwise provided in subsection (2) or  
13 (3), this act applies to a receivership for an interest in ~~real~~ **any**  
14 **of the following:**

15 (a) **Real** property, **fixtures**, and any personal property related  
16 to or used in operating the real property.

17 (b) **Personal property.**

18 (2) This act does not apply to a receivership for an interest  
19 in real property improved by 1 to 4 dwelling units unless 1 or more  
20 of the following applies:

21 (a) The interest is used for agricultural, commercial,  
22 industrial, or mineral-extraction purposes, other than incidental  
23 uses by an owner occupying the property as the owner's primary  
24 residence.

25 (b) The interest secures an obligation incurred at a time when  
26 the property was used or planned for use for agricultural,  
27 commercial, industrial, or mineral-extraction purposes.

28 (c) The owner planned or is planning to develop the property  
29 into 1 or more dwelling units to be sold or leased in the ordinary



1 course of the owner's business.

2 (d) The owner is collecting or has the right to collect rents  
3 or other income from the property from a person other than an  
4 affiliate of the owner.

5 (3) This act does not apply to a receivership authorized by  
6 law of this state other than this act in which the receiver is a  
7 governmental unit or an individual acting in an official capacity  
8 on behalf of the unit except to the extent provided by the other  
9 law.

10 (4) This act does not limit the authority of a court to  
11 appoint a receiver under law of this state other than this act.

12 (5) Unless displaced by a particular provision of this act,  
13 the principles of law and equity supplement this act.

14 Sec. 5. (1) ~~The~~ **Except as provided in this act, the** procedure  
15 for the selection, appointment, removal, and compensation of a  
16 receiver, **or a professional engaged under section 15,** under this  
17 act is as established by ~~rule of the supreme court.~~ **court rules.**

18 (2) The court that appoints a receiver under this act has  
19 exclusive jurisdiction to direct the receiver and determine any  
20 controversy related to the receivership or receivership property.

21 Sec. 6. (1) The court may appoint a receiver as follows:

22 (a) Before judgment, to protect a party that demonstrates an  
23 apparent right, title, or interest in ~~real~~ property that is the  
24 subject of the action, under either of the following circumstances:

25 (i) The property or its revenue-producing potential is being  
26 subjected to or is in danger of waste, loss, dissipation, or  
27 impairment.

28 (ii) The property or its revenue-producing potential has been  
29 or is about to be the subject of a voidable transaction.





(b) After judgment for any of the following reasons:

(i) To carry the judgment into effect.

(ii) To preserve nonexempt ~~real~~ property pending appeal or when an execution has been returned unsatisfied and the owner refuses to apply the property in satisfaction of the judgment.

(c) ~~In an action in which~~ **If** a receiver for ~~real property~~ may be appointed on equitable grounds.

(d) During the time allowed for redemption, to preserve ~~real~~ property sold in an execution or foreclosure sale and secure its rents to the person entitled to the rents.

(2) In connection with the foreclosure or other enforcement of a ~~mortgage~~, **security agreement or lien**, the court may appoint a receiver for the ~~mortgaged~~ property under any of the following circumstances:

(a) Appointment is necessary to protect the property from waste, loss, transfer, dissipation, or impairment.

(b) The ~~mortgagor~~ **person that granted a lien in the property** agreed in a signed record to appointment of a receiver on default.

(c) The owner agreed, after default and in a signed record, to appointment of a receiver.

(d) The property ~~and any other collateral~~ held by the ~~mortgagee~~ **are** ~~secured party is~~ not sufficient to satisfy the secured obligation.

(e) The owner fails to turn over to the ~~mortgagee~~ **secured party** proceeds or rents the ~~mortgagee~~ **secured party** was entitled to collect.

(f) The holder of a subordinate lien obtains appointment of a receiver for the property.

(3) The court may condition appointment of a receiver without



1 prior notice under section 3(2) (a) or without a prior hearing under  
2 section 3(2) (b) on the giving of security by the person seeking the  
3 appointment for the payment of damages, reasonable attorney fees,  
4 and costs incurred or suffered by any person if the court later  
5 concludes that the appointment was not justified. If the court  
6 later concludes that the appointment was justified, the court shall  
7 release the security.

8 Sec. 11. (1) Unless the court orders otherwise, a person shall  
9 do both of the following on demand by a receiver, as applicable:

10 (a) If the person owes a debt that is receivership property  
11 and is matured or payable on demand or on order, pay the debt to or  
12 on the order of the receiver, except to the extent the debt is  
13 subject to setoff or recoupment.

14 (b) Subject to subsection (3), if the person has possession,  
15 custody, or control of receivership property, turn the property  
16 over to the receiver.

17 (2) A person that has notice of the appointment of a receiver  
18 and owes a debt that is receivership property may not satisfy the  
19 debt by payment to the owner.

20 (3) If a creditor has possession, custody, or control of  
21 receivership property and the validity, perfection, or priority of  
22 the creditor's lien on the property depends on the creditor's  
23 possession, custody, or control, the creditor may retain  
24 possession, custody, or control until the court orders adequate  
25 protection of the creditor's lien.

26 (4) Unless a bona fide dispute exists about a receiver's right  
27 to possession, custody, or control of receivership property, the  
28 court may sanction as ~~civil~~-contempt a person's failure to turn the  
29 property over when required by this section.



1       Sec. 12. (1) Except as limited by court order or **applicable**  
2 law, ~~of this state other than this act~~, a receiver may do all of  
3 the following:

4       (a) Collect, control, manage, conserve, and protect  
5 receivership property.

6       (b) Operate a business constituting receivership property,  
7 including preservation, use, sale, lease, license, exchange,  
8 collection, or disposition of the property in the ordinary course  
9 of business.

10       (c) In the ordinary course of business, incur unsecured debt  
11 and pay expenses incidental to the receiver's preservation, use,  
12 sale, lease, license, exchange, collection, or disposition of  
13 receivership property.

14       (d) Assert a right, claim, cause of action, or defense of the  
15 owner that relates to receivership property.

16       (e) Seek and obtain instruction from the court concerning  
17 receivership property, exercise of the receiver's powers, and  
18 performance of the receiver's duties.

19       (f) On subpoena, compel a person to submit to examination  
20 under oath, or to produce and permit inspection and copying of  
21 designated records or tangible things, with respect to receivership  
22 property or any other matter that may affect administration of the  
23 receivership.

24       (g) Engage a professional as provided in section 15.

25       (h) Apply to a court of another state for appointment as  
26 ancillary receiver with respect to receivership property located in  
27 that state.

28       (i) Exercise any power conferred by court order, this act, or  
29 law of this state other than this act.



1 (2) With court approval, a receiver may do any of the  
2 following:

3 (a) Incur debt for the use or benefit of receivership property  
4 other than in the ordinary course of business.

5 (b) Make improvements to receivership property.

6 (c) Use or transfer receivership property other than in the  
7 ordinary course of business as provided in section 16.

8 (d) Adopt or reject an executory contract of the owner as  
9 provided in section 17.

10 (e) Pay compensation to the receiver as provided in section  
11 21, and to each professional engaged by the receiver as provided in  
12 section 15.

13 (f) Recommend allowance or disallowance of a claim of a  
14 creditor as provided in section 20.

15 (g) Make a distribution of receivership property as provided  
16 in section 20.

17 (3) A receiver shall do all of the following:

18 (a) Prepare and retain appropriate business records, including  
19 a record of each receipt, disbursement, and disposition of  
20 receivership property.

21 (b) Account for receivership property, including the proceeds  
22 of a sale, lease, license, exchange, collection, or other  
23 disposition of the property.

24 (c) File with the appropriate real property recording office a  
25 copy of the order appointing the receiver and, if a legal  
26 description of the real property is not included in the order, the  
27 legal description.

28 (d) Disclose to the court any fact arising during the  
29 receivership that would disqualify the receiver under ~~section 7.~~ **the**



1 court rules.

2 (e) Perform any duty imposed by court order, this act, or law  
3 of this state other than this act.

4 (4) Notwithstanding any other provision of this act, at any  
5 time, on request of a person that has an interest in property used,  
6 sold, or leased, or proposed to be used, sold, or leased, by the  
7 receiver, the court shall prohibit or condition the use, sale, or  
8 lease as is necessary to provide adequate assurance of the value of  
9 the interest.

10 (5) ~~(4)~~—The powers and duties of a receiver may be expanded,  
11 modified, or limited by court order **on reasonable notice as**  
12 **determined by the court.**

13 Sec. 13. (1) An owner shall do all of the following:

14 (a) Assist and cooperate with the receiver in the  
15 administration of the receivership and the discharge of the  
16 receiver's duties.

17 (b) Preserve and turn over to the receiver all receivership  
18 property in the owner's possession, custody, or control.

19 (c) Identify all records and other information relating to the  
20 receivership property, including a password, authorization, or  
21 other information needed to obtain or maintain access to or control  
22 of the receivership property, and make available to the receiver  
23 the records and information in the owner's possession, custody, or  
24 control.

25 (d) Except as may be otherwise ordered by the court for cause,  
26 within 7 days after the entry of the order appointing the receiver,  
27 deliver to the receiver a list containing the name and address of  
28 all creditors and other known interested parties of the  
29 receivership estate.



1       (e) ~~(d)~~—On subpoena, submit to examination under oath by the  
2 receiver concerning the acts, conduct, property, liabilities, and  
3 financial condition of the owner or any matter relating to the  
4 receivership property or the receivership.

5       (f) ~~(e)~~—Perform any duty imposed by court order, this act, or  
6 law of this state other than this act.

7       (2) If an owner is a person other than an individual, this  
8 section applies to each officer, director, manager, member,  
9 partner, trustee, or other person exercising or having the power to  
10 exercise control over the affairs of the owner.

11       (3) If a person knowingly fails to perform a duty imposed by  
12 this section, the court may do 1 or both of the following:

13       (a) Award the receiver actual damages caused by the person's  
14 failure, reasonable attorney fees, and costs.

15       (b) Sanction the failure as ~~civil~~ contempt.

16       Sec. 14. (1) Except as otherwise provided in subsection (4) or  
17 ordered by the court, an order appointing a receiver operates as a  
18 stay, applicable to all persons, of an act, action, or proceeding  
19 to do any of the following:

20       (a) Obtain possession of, exercise control over, or enforce a  
21 judgment against receivership property.

22       (b) Enforce a lien against receivership property to the extent  
23 the lien secures a claim against the owner that arose before entry  
24 of the order.

25       (2) Except as otherwise provided in subsection (4), the court  
26 may enjoin an act, action, or proceeding against or relating to  
27 receivership property if the injunction is necessary to protect the  
28 property or facilitate administration of the receivership.

29       (3) A person whose act, action, or proceeding is stayed or



1 enjoined under this section may apply to the court for relief from  
 2 the stay or injunction for cause, **including the lack of adequate**  
 3 **assurance of an interest in property of the person.**

4 (4) An order under subsection (1) or (2) does not operate as a  
 5 stay or injunction of any of the following:

6 (a) An act, action, or proceeding to foreclose or otherwise  
 7 enforce a ~~mortgage~~ **security agreement** by the person seeking  
 8 appointment of the receiver.

9 (b) An act, action, or proceeding to perfect, or maintain or  
 10 continue the perfection of, an interest in receivership property.

11 (c) Commencement or continuation of a criminal proceeding.

12 (d) Commencement or continuation of an action or proceeding,  
 13 or enforcement of a judgment other than a money judgment in an  
 14 action or proceeding, by a governmental unit to enforce its police  
 15 or regulatory power.

16 (e) Establishment by a governmental unit of a tax liability  
 17 against the owner or receivership property or an appeal of the  
 18 liability.

19 (5) The court may void an act that violates a stay or  
 20 injunction under this section.

21 (6) If a person knowingly violates a stay or injunction under  
 22 this section, the court may do 1 or both of the following:

23 (a) Award actual damages caused by the violation, reasonable  
 24 attorney fees, and costs.

25 (b) Sanction the violation as ~~civil~~ contempt.

26 Sec. 15. (1) With court approval, a receiver may engage an  
 27 attorney, accountant, appraiser, auctioneer, broker, or other  
 28 professional to assist the receiver in performing a duty or  
 29 exercising a power of the receiver. The receiver shall disclose all



1 of the following to the court:

2 (a) The identity and qualifications of the professional.

3 (b) The scope and nature of the proposed engagement.

4 (c) Any potential conflict of interest.

5 (d) The proposed compensation.

6 ~~(2) A person is not disqualified from engagement under this~~  
7 ~~section solely because of the person's engagement by,~~  
8 ~~representation of, or other relationship with the receiver, a~~  
9 ~~creditor, or a party. This act does not prevent the receiver from~~  
10 ~~serving in the receivership as an attorney, accountant, auctioneer,~~  
11 ~~or broker when authorized by law.~~

12 (2) ~~(3)~~ A receiver or professional engaged under subsection  
13 (1) shall file with the court an itemized statement of the time  
14 spent, work performed, and billing rate of each person that  
15 performed the work and an itemized list of expenses. The receiver  
16 shall pay the amount approved by the court.

17 Sec. 16. (1) As used in this section, "good faith" means  
18 honesty in fact and the observance of reasonable commercial  
19 standards of fair dealing.

20 (2) With court approval, a receiver may use receivership  
21 property other than in the ordinary course of business.

22 (3) With court approval, **and after notice and an opportunity**  
23 **for a hearing is given to all creditors and other known interested**  
24 **parties unless the court orders otherwise for cause,** a receiver may  
25 transfer receivership property other than in the ordinary course of  
26 business by sale, lease, license, exchange, or other disposition.  
27 Unless the agreement of sale provides otherwise, a sale under this  
28 section is free and clear of a lien of the person that obtained  
29 appointment of the receiver, any subordinate lien, and any right of





1 redemption but is subject to a senior lien.

2 (4) A lien on receivership property that is extinguished by a  
3 transfer under subsection (3) attaches to the proceeds of the  
4 transfer with the same validity, perfection, and priority the lien  
5 had on the property immediately before the transfer, even if the  
6 proceeds are not sufficient to satisfy all obligations secured by  
7 the lien.

8 (5) A transfer under subsection (3) may occur by means other  
9 than a public auction sale. A creditor holding a valid lien on the  
10 property to be transferred may purchase the property and offset  
11 against the purchase price part or all of the allowed amount  
12 secured by the lien, if the creditor tenders funds sufficient to  
13 satisfy in full the reasonable expenses of transfer and the  
14 obligation secured by any senior lien extinguished by the transfer.

15 (6) A reversal or modification of an order approving a  
16 transfer under subsection (3) does not affect the validity of the  
17 transfer to a person that acquired the property in good faith or  
18 revive against the person any lien extinguished by the transfer,  
19 whether the person knew before the transfer of the request for  
20 reversal or modification, unless the court stayed the order before  
21 the transfer.

22 Sec. 18. (1) A receiver is entitled to all defenses and  
23 immunities provided by law of this state other than this act for an  
24 act or omission within the scope of the receiver's appointment.

25 ~~(2) A receiver may be sued personally for an act or omission~~  
26 ~~in administering receivership property only with approval of the~~  
27 ~~court that appointed the receiver.~~ **Leave of the appointing court**  
28 **must be obtained before the institution of any action or proceeding**  
29 **against a receiver or a professional engaged by the receiver.**



1       Sec. 19. ~~A-Except as otherwise ordered by the court for cause,~~  
 2   a receiver ~~may file or, if ordered by the court,~~ shall file an  
 3   **quarterly** interim ~~report-reports~~ that ~~includes-include~~ all of the  
 4   following:

5       (a) The activities of the receiver since appointment or a  
 6   previous report.

7       (b) Receipts and disbursements, including a payment made or  
 8   proposed to be made to a professional engaged by the receiver.

9       (c) Receipts and dispositions of receivership property.

10      (d) Fees and expenses of the receiver and, if not filed  
 11   separately, a request for approval of payment of the fees and  
 12   expenses.

13      (e) Any other information required by the court.

14      Sec. 20. (1) **Within 7 days after the receipt by the receiver**  
 15   **of the list required under section 13(1) (d), the receiver shall**  
 16   **provide all creditors and any other known interested parties with**  
 17   **notice and a copy of any order governing its appointment.**  
 18   **Notwithstanding the foregoing, the court may delay, limit, or**  
 19   **eliminate the notice required by this subsection on finding that**  
 20   **cause exists for doing so.**

21      (2) **If the receiver concludes that receivership property is**  
 22   **likely to be sufficient to provide a distribution to creditors**  
 23   **other than those holding a perfected lien on the property, the**  
 24   **court may order that the receiver give notice to all creditors and**  
 25   **any other known interested parties that they need to submit claims**  
 26   **under this section.**

27      (3) ~~(1) Except as otherwise provided in subsection (6), a~~  
 28   ~~receiver shall give notice of appointment of the receiver to~~  
 29   ~~creditors of the owner~~ **When notice is given under subsection (1) or**

1   **(2), it must be given** by both of the following:

2           (a) Deposit for delivery through first-class mail or other  
3 commercially reasonable delivery method to the last known address  
4 of each creditor.

5           (b) Publication as directed by the court.

6           **(4)** ~~(2) Except as otherwise provided in subsection (6),~~  
7 **directed by the court,** the notice required by subsection (1) must  
8 specify the date by which each creditor holding a claim against the  
9 owner that arose before appointment of the receiver must submit the  
10 claim to the receiver. The date specified must be at least 90 days  
11 after the later of notice under subsection ~~(1) (a)~~ **(3) (a)** or last  
12 publication under subsection ~~(1) (b)~~ **(3) (b)**. The court may extend  
13 the period for submitting the claim. Unless the court orders  
14 otherwise, a claim that is not submitted timely is not entitled to  
15 a distribution from the receivership.

16           **(5)** ~~(3)~~ A claim submitted by a creditor under this section  
17 must satisfy all of the following requirements:

18           (a) The claim must state the name and address of the creditor.

19           (b) The claim must state the amount and basis of the claim.

20           (c) The claim must identify any property securing the claim.

21           (d) The claim must be signed by the creditor under penalty of  
22 perjury.

23           (e) The claim must include a copy of any record on which the  
24 claim is based.

25           **(6)** ~~(4)~~ An assignment by a creditor of a claim against the  
26 owner is effective against the receiver only if the assignee gives  
27 timely notice of the assignment to the receiver in a signed record.

28           **(7)** ~~(5)~~ At any time before entry of an order approving a  
29 receiver's final report, the receiver may file with the court an



objection to a claim of a creditor, stating the basis for the objection. The court shall allow or disallow the claim according to law of this state other than this act.

~~(6) If the court concludes that receivership property is likely to be insufficient to satisfy claims of each creditor holding a perfected lien on the property, the court may order both of the following:~~

~~(a) That the receiver need not give notice under subsection (1) of the appointment to all creditors of the owner, but only such creditors as the court directs.~~

~~(b) That unsecured creditors need not submit claims under this section.~~

~~(8) (7)~~ Subject to section 21, both of the following apply to a distribution of receivership property:

(a) If the distribution is to a creditor holding a perfected lien on the property, the distribution must be made in accordance with the creditor's priority under law of this state other than this act.

(b) If the distribution is to a creditor with an allowed unsecured claim, the distribution must be made as the court directs according to law of this state other than this act.

Sec. 21. (1) The court may award a receiver from receivership property the reasonable and necessary fees and expenses of performing the duties of the receiver and exercising the powers of the receiver.

(2) The court may order 1 or more of the following to pay the reasonable and necessary fees and expenses of the receivership, including reasonable attorney fees and costs **and any fees and expenses of professionals engaged under section 15:**



1 (a) A person that requested the appointment of the receiver,  
 2 if the receivership does not produce sufficient funds to pay the  
 3 fees and expenses.

4 (b) A person whose conduct justified or would have justified  
 5 the appointment of the receiver under section 6(1)(a).

6 Sec. 24. (1) The court may appoint a receiver appointed in  
 7 another state, or that person's nominee, as an ancillary receiver  
 8 with respect to property located in this state or subject to the  
 9 jurisdiction of the court for which a receiver could be appointed  
 10 under this act, if both of the following apply:

11 (a) The person or nominee would be eligible to serve as  
 12 receiver under ~~section 7.~~ **this act.**

13 (b) The appointment furthers the person's possession, custody,  
 14 control, or disposition of property subject to the receivership in  
 15 the other state.

16 (2) The court may issue an order that gives effect to an order  
 17 entered in another state appointing or directing a receiver.

18 (3) Unless the court orders otherwise, an ancillary receiver  
 19 appointed under subsection (1) has the rights, powers, and duties  
 20 of a receiver appointed under this act.

21 Sec. 25. A request by a ~~mortgagee~~ **secured party** for  
 22 appointment of a receiver, the appointment of a receiver, or  
 23 application by a ~~mortgagee~~ **secured party** of receivership property  
 24 or proceeds to the secured obligation does not do any of the  
 25 following:

26 (a) Make the ~~mortgagee~~ **secured party** a mortgagee in possession  
 27 of the real property.

28 (b) **Impose any duty on the secured party under section 9207 of**  
 29 **the uniform commercial code, 1962 PA 174, MCL 440.9207.**



1        **(c)** ~~(b)~~ Make the ~~mortgagee~~ **secured party** an agent of the  
2 owner.  
3        **(d)** ~~(e)~~ Constitute an election of remedies that precludes a  
4 later action to enforce the secured obligation.  
5        **(e)** ~~(d)~~ Make the secured obligation unenforceable.  
6        **(f)** ~~(e)~~ Limit any right available to the ~~mortgagee~~ **secured**  
7 **party** with respect to the secured obligation.  
8        **(g)** ~~(f)~~ Constitute an action within the meaning of section  
9 3204(1) (b) of the revised judicature act of 1961, 1961 PA 236, MCL  
10 600.3204.

