

CONSTRUCTION LIEN ACT (EXCERPT)
Act 497 of 1980

570.1122 Appointing receiver in action to enforce construction lien through foreclosure or in action to foreclose mortgage; petition; motion; finding; appointment; nominations by mortgagee and lien claimant; fiduciary responsibility; appointment of receiver for residential structure or certain apartment buildings prohibited; power of receiver.

Sec. 122. (1) If the improvement to the real property is not completed as of the date of commencement of an action in which enforcement of a construction lien through foreclosure is sought or in any action to foreclose a mortgage on the real property on which the incomplete improvement exists, any lien claimant or mortgagee may petition the court for the appointment of a receiver. The petition shall be heard as a motion. A receiver may be appointed by the court upon finding that a substantial unpaid construction lien exists, or that the mortgage on the real property is in default and that the lien claimant, the mortgagee, or both, are likely to sustain substantial loss if the improvement is not completed.

(2) When making an appointment of a receiver under this section, the court shall give consideration to the nominations of the mortgagee and the lien claimant. Any receiver appointed under this section shall be deemed a fiduciary for the benefit of all persons having or claiming interests in the real property, and shall exercise his or her office accordingly.

(3) A receiver shall not be appointed under this section for any residential structure, nor for any apartment building containing 4 or less apartments.

(4) The receiver shall be entitled to possession of the real property upon his or her appointment. Unless otherwise limited by the court, and subject to his or her fiduciary responsibility as provided in this act, the receiver shall have all powers generally exercised by a receiver in a court of equity, including the right to be compensated for his or her services and those of his or her agents and attorneys.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982.