
Florida Uniform Commercial Real Estate Receivership Act

Expanded Receiver Powers in the Midst of Turmoil in the Real Estate Industry

It's no secret that the Coronavirus has brought disruption and distress to the commercial real estate industry. In the midst of this turmoil, the Florida Legislature unanimously passed and Governor Ron DeSantis recently signed the Uniform Commercial Real Estate Receivership Act (the "UCRERA"). The UCRERA is effective for all commercial real estate receiverships for which a receiver is appointed on or after July 1, 2020. The effect of the legislation is to codify and clarify existing common law, establish the circumstances under which a receiver may be appointed, and enumerate the enhanced powers of court-appointed receivers. Judges are granted an expanded set of powers similar to those of federal bankruptcy court judges.

- **Grounds for Appointment of Receivers.** Florida [common law](#) (case law) for many years has permitted the appointment of receivers to operate and manage real property that is subject to a foreclosure action. However, the law of receivership was largely uncodified and was subject to a variety of interpretations and rulings depending upon the particular judge and judicial circuit involved. The UCRERA represents an extensive codification of the Florida law of receiverships and, among other things, establishes the circumstances under which a receiver may be appointed with respect to commercial real estate.
- **Powers Granted to a Receiver.** Among the many powers granted to a receiver under the UCRERA are the rights to:
 - control, manage and conserve the property
 - operate a business constituting receivership property;
 - require that debts constituting receivership property be paid to the receiver;
 - require property owners to pay receiver expenses (including attorneys' fees);
 - assert claims on behalf of the receivership property;
 - compel persons to submit to examinations under oath and permit inspection and copying of designated records;
 - adopt or reject executory contracts of owners;
 - engage professionals; and
 - with court approval, sell receivership property before a judgment has been obtained.
- **Owner's Obligations.** The UCERA requires owners to assist and cooperate in the administration of the receiver's duties, including:
 - preserve and turnover all receivership property;
 - identify and make records available to the receiver;
 - submit to an examination under oath, if subpoenaed; and
 - comply with any other obligations ordered by the court.

The UCRERA will have the effect of expediting real estate foreclosure proceedings and expanding and clarifying the powers of receivers. Receivership proceedings in Florida will now be more expedited, efficient, and empowered.

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