

Insights

Florida's New Receivership Law: A Game-Changer for Secured Creditors

Article

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09.26.2025

As a secured creditor in Florida, you now have significantly enhanced tools at your disposal thanks to the Uniform Commercial Real Estate Receivership Act (UCRERA). This landmark legislation fundamentally transforms how receiverships operate in commercial real estate disputes, offering creditors more predictable and powerful remedies when borrowers default.

Why UCRERA Matters

Before UCRERA, Florida's receivership law was scattered across common law precedents and contractual provisions, creating uncertainty and inconsistent outcomes. Courts had broad discretion with limited statutory guidance, making it difficult to predict when a receiver would be appointed or what powers they would have. The new law codifies clear standards and procedures, giving you greater confidence in pursuing receivership as a remedy.

Expanded Grounds for Appointment

UCRERA provides specific statutory bases for appointing receivers that go beyond traditional common law grounds. Before judgment, you can now seek a receiver when property faces "waste, loss, substantial diminution in value, dissipation, or impairment" or when it has been subject to a voidable transaction. The law also requires courts to consider five key factors:

- The need to avoid waste
- Pre-default contractual agreements for receivership
- Post-default agreements
- Equity in the property
- Whether the borrower has failed to turn over rents

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Enhanced Receiver Powers

Under UCRERA, receivers have significantly expanded authority. They can manage and protect property, operate businesses, incur ordinary-course debts, prosecute claims, and issue subpoenas. With specific court approval, they can also engage professionals, make improvements, and—critically—sell property outside the ordinary course of business.

Revolutionary Sale Provisions

Perhaps UCRERA's most significant advantage is its explicit authorization of receiver sales. Previously, Florida case law had cast doubt on a receiver's ability to sell property, and title insurers were reluctant to insure such sales. Now, with proper notice and court approval, receivers can conduct "free and clear" sales similar to bankruptcy proceedings, with liens attaching to the proceeds rather than the property.

For pre-judgment sales, you need either the owner's consent or, if they object, a showing that the sale is necessary to prevent waste or diminishment in value. Post-judgment sales require only court approval to carry the judgment into effect. Sales can be public or private, and lienholders can credit bid—providing maximum flexibility for asset recovery.

Strategic Implications

This new framework creates opportunities for more efficient and cost-effective debt collection. Instead of traditional foreclosure's lengthy process, receivership sales can provide faster asset liquidation while preserving value. The law essentially brings bankruptcy-style efficiency to state court proceedings, giving you hybrid remedies that were previously unavailable.

For secured creditors, UCRERA represents a paradigm shift—transforming receivership from an uncertain ancillary remedy into a primary strategic tool for protecting and recovering collateral. The key is understanding when and how to deploy these new powers effectively in your specific circumstances.

Understanding UCRERA's complexities requires experienced counsel familiar with both traditional receivership practice and the new statutory framework. Consider consulting with a creditor's rights attorney to evaluate how these enhanced remedies might benefit your collection strategy.