



WHY YOUR STATE SHOULD ADOPT THE UNIFORM COMMERCIAL REAL ESTATE RECEIVERSHIP ACT (UCRERA)

A receiver is a person appointed by a court to take possession of property and to manage or dispose of that property and any income the property produces. Usually the property or its owner is the subject of a lawsuit or a foreclosure action. The receiver's job is to ensure the property retains its maximum value and that any income is distributed to the proper parties.

Courts usually appoint receivers of commercial property when the court needs a responsible party to run a business located on the property, collect rents, or sell the property in an orderly manner. However, the standards for court appointment and the powers of the receiver vary widely from state to state, and sometimes from court to court. The Uniform Commercial Real Estate Receivership Act (UCRERA) provides a basic set of standard rules for receiverships, and gives courts the flexibility to design the most appropriate remedy for the circumstances. States should adopt UCRERA because:

- ***UCRERA provides certainty for business owners and creditors.*** Commercial lending markets operate most efficiently when the rules are consistent from state to state. Under UCRERA, all parties know exactly when a receiver may be appointed and what powers a receiver may exercise.
- ***UCRERA is fair to all parties.*** No receiver may be appointed under UCRERA without notice and an opportunity for a court hearing, unless special circumstances make that impossible. Receivers must post a security bond and are subject to court supervision and removal. Anyone who wrongfully obtains appointment of a receiver is liable for damages, including legal fees.
- ***UCRERA can preserve and maximize the value of commercial property.*** Standard commercial mortgage contracts give the lender a right to have a receiver appointed in the event of default. Under UCRERA, with court approval, a receiver may sell receivership property free and clear of liens and rights of redemption (i.e., with the same effect as a foreclosure sale) without impairing a senior mortgage. This permits a receiver to market and sell receivership property more effectively than through foreclosure (which by law is a "distress sale" at public auction), and thus receiver sales under UCRERA should produce higher sale prices. UCRERA's fair and efficient procedures should encourage lenders to choose receivership, but do not prevent lenders from choosing to proceed with a traditional foreclosure.
- ***UCRERA helps state courts implement proper remedies.*** A receiver can act as an extension of the court, doing the practical day-to-day work necessary to preserve property and income as necessary to implement the court's orders.
- ***UCRERA is limited to commercial property.*** No receiver may be appointed for owner-occupied real property improved with one to four dwelling units unless the owner uses the property primarily for agricultural, commercial, industrial, or mineral-extraction purposes.

For further information about UCRERA, please contact Jane Sternecky, ULC Legislative Counsel, at (312) 450-6622 or jsternecky@uniformlaws.org.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.