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The New Illinois Receivership Act

August 28, 2025

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Effective January 1, 2026, the new Illinois Receivership Act will come effective to provide litigators in Illinois with expanded tools for creditors and distressed businesses to protect and manage assets during a business downturn. The Act does not apply to residential real estate with 1-6 dwelling units unless used for commercial purposes, receiverships under other laws such as the Illinois Mortgage Foreclosure Law and governmental receiverships.

Under the Act, receivers can be appointed pre- or post-judgment in cases involving enforcement of liens, corporate disputes and at-risk mismanaged real estate and business assets. The Act also authorizes Illinois courts to recognize foreign receivership orders and to appoint ancillary receivers for assets located in Illinois. Upon appointment, a limited automatic stay goes into effect as to the receivership property,

The Act empowers receivers to:

- Secure and manage property
- Operate businesses and incur ordinary-course debts
- Initiate and defend claims
- Hire professionals—receivers and professionals are entitled to reasonable compensation paid from the receivership estate or a court may allocate payment to parties requesting the receivership or parties whose actions justified the appointment
- Sell, lease, or transfer assets (with court approval if outside ordinary course)
- Assume or reject contracts and leases
- Make distributions to creditors

To ensure protections for secured creditors, the Act provides:

- Pre-existing liens remain intact, including those on after-acquired property
- Possession and control of collateral may be retained by secured creditors to preserve priority
- Creditors may perfect and maintain liens
- Asset sales free and clear of liens require senior lienholder consent or are subject to that lien
- Junior creditors cannot force a sale over senior lienholder objections
- Secured creditors may credit bid at a sale
- Subordination agreements remain enforceable
- Proceeds of sale are distributed in accordance with Illinois lien priority law
- Receivership requests do not convert creditors into mortgagees in possession or waive rights

Once appointed, the receiver must notify all known creditors. Each creditor then has at least 60 days to submit a proof of claim as detailed in the Act.

Owners of receivership property are required under the Act to cooperate with the receiver, turn over property and access, provide financial records and other documents and submit to a sworn examination if requested. Failure to comply may result in contempt.

The Illinois Receivership Act represents a watershed development in the Illinois insolvency practice by offering businesses, secured creditors and courts with a more effective alternative to traditional b bankruptcy proceedings. The Act also provides stakeholders dealing in distressed assets with a vital tool to protect value and preserve creditor rights.

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