Insights: Alerts

Creditor Enforcement Under the Illinois Receivership Act

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The Illinois Receivership Act ("Act") takes effect on **January 1, 2026**. This new law provides a robust legal framework for the appointment, powers, and administration of commercial receiverships in Illinois. Notably, the Act provides a streamlined process which permits receivers to recover and sell assets. The Act covers all types of assets, whether collateralized or not, from personal and business assets to commercial real estate. Receivers can be appointed before or after judgment in cases involving lien enforcement, business dissolution, management deadlock, fraud and insolvency.

Under the Act, receivers can be appointed for any of the following reasons:

1. to protect the property from waste, loss, transfer, dissipation, or impairment;
2. the debtor agreed in a signed record to appointment of a receiver on default;
3. the owner agreed, after default and in a signed record, to appointment of a receiver;
4. the collateral and any other collateral security held by the secured party is insufficient to satisfy the secured obligation;
5. the owner fails to turn over to the secured party proceeds or rents the secured party was entitled to collect; or
6. the holder of a subordinate lien obtains appointment of a receiver for the property.

Illinois law will change in several key ways under the Act.

- Receivers can sell business assets without utilizing the Uniform Commercial Code or an Assignment for the Benefit of Creditors.
- Receivers can sell commercial real estate and residential real estate with more than six dwelling units without the procedural requirements in the Illinois Mortgage Foreclosure Law.
- Owners of receivership property are required under the Act to cooperate with the receiver, preserve and turn over property, provide financial records and other documents, and submit to a sworn examination if requested. Failure to comply may result in a finding of contempt by the court.

Receivers under the Act will enjoy additional powers compared to receivers appointed under existing Illinois law, including:

- Secure and manage property, operate businesses and incur ordinary-course debts.
- Initiate and defend claims, issue subpoenas.
- Sell, lease, or transfer assets (with court approval if outside ordinary course).
- Assume or reject contracts and leases.
- Make distributions to creditors.

This new law will provide exceptional relief for creditors seeking to sell collateral and obtain recovery from business assets in a more efficient manner. The attorneys at Kilpatrick are available to discuss the implementation of this new law with you.

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