

1                   A bill to be entitled  
2           An act relating to the Uniform Commercial Real Estate  
3           Receivership Act; creating chapter 714, F.S., relating  
4           to the Uniform Commercial Real Estate Receivership  
5           Act; providing a short title; defining terms;  
6           prohibiting a court from issuing certain orders unless  
7           certain requirements are met; providing requirements  
8           for certain court orders; authorizing certain parties  
9           to move to dissolve or modify certain orders;  
10          requiring that such motions be heard within a  
11          specified timeframe; providing construction and  
12          applicability; specifying that a court has exclusive  
13          jurisdiction to direct receivers and determine  
14          controversies under certain circumstances; providing  
15          requirements and authorizations relating to the  
16          appointment of a receiver; specifying when a person is  
17          or is not disqualified from appointment as a receiver;  
18          authorizing certain persons to nominate someone to  
19          serve as a receiver; specifying the court is not bound  
20          by such nomination; requiring a receiver to post a  
21          bond with the court which meets certain requirements;  
22          providing an exception; prohibiting a claim against a  
23          receiver's bond or alternative security from being  
24          made after a certain time; providing that an appointed  
25          receiver has certain statuses of a lien creditor;

26 providing that certain property is subject to  
27 specified security agreements; providing requirements  
28 relating to the collection and turnover of  
29 receivership property; providing for powers and duties  
30 of a receiver; authorizing the court to expand,  
31 modify, or limit such powers and duties; providing for  
32 duties of an owner; authorizing a court to take  
33 certain actions if a person knowingly fails to perform  
34 a duty; authorizing a court to take certain actions  
35 relating to stays and injunctions; authorizing certain  
36 persons to apply for relief from a stay or injunction;  
37 specifying when an order does not operate as a stay or  
38 injunction; authorizing receivers to engage and  
39 compensate certain professionals under certain  
40 circumstances; requiring certain persons to file an  
41 itemized statement with the court; requiring a  
42 receiver to pay an amount approved by the court;  
43 defining the term "good faith"; authorizing a receiver  
44 to use or transfer receivership property other than in  
45 the ordinary course of business under certain  
46 circumstances; providing for the service of notice to  
47 lien holders who are not parties to the action;  
48 defining the term "timeshare interest"; authorizing a  
49 receiver to adopt or reject an executory contract of  
50 the owner relating to receivership property under

51 certain circumstances; requiring that a claim of  
52 damages for rejection of a contract be submitted  
53 within a specified timeframe; authorizing a purchaser  
54 to take certain actions if a receiver rejects an  
55 executory contract under certain circumstances;  
56 prohibiting a receiver from rejecting unexpired leases  
57 of certain property under certain circumstances;  
58 providing for defenses and immunities of a receiver;  
59 providing requirements for interim reports filed by a  
60 receiver; providing requirements relating to notices  
61 of appointment; authorizing the court to enter certain  
62 orders if the court concludes that receivership  
63 property is likely to be insufficient to satisfy  
64 certain claims; providing requirements for certain  
65 distributions of receivership property; authorizing a  
66 court to award fees and expenses; authorizing a court  
67 to order certain persons to pay fees and expenses;  
68 providing for the removal and replacement of a  
69 receiver and the termination of a court's  
70 administration of the receivership property under  
71 certain circumstances; requiring a receiver to file a  
72 final report containing certain information upon  
73 completion of the receiver's duties; specifying that a  
74 receiver is discharged if certain requirements are  
75 met; authorizing a court to appoint ancillary

76 receivers under certain circumstances; providing for  
 77 rights, powers, and duties of an ancillary receiver;  
 78 specifying that certain requests, appointments, and  
 79 applications by a mortgagee do not have certain  
 80 effects; providing construction and applicability;  
 81 providing an effective date.

82  
 83 Be It Enacted by the Legislature of the State of Florida:

84  
 85 Section 1. Chapter 714, Florida Statutes, consisting of  
 86 sections 714.01-714.28, is created to read:

87 CHAPTER 714

88 UNIFORM COMMERCIAL REAL ESTATE RECEIVERSHIP ACT

89 714.01 Short title.—This chapter may be cited as the  
 90 "Uniform Commercial Real Estate Receivership Act."

91 714.02 Definitions.—For the purposes of this chapter, the  
 92 term:

93 (1) "Affiliate" means:

94 (a) With respect to an individual:

95 1. A companion of the individual;

96 2. A lineal ancestor or descendent, whether by blood or  
 97 adoption, of:

98 a. The individual; or

99 b. A companion of the individual;

100 3. A companion of an ancestor or descendent as described

101 in subparagraph 2.;

102 4. A sibling, aunt, uncle, great aunt, great uncle, first  
103 cousin, niece, nephew, grandniece, or grandnephew of the  
104 individual, whether related by the whole or the half blood or  
105 adoption, or a companion of any of them; or

106 5. Any other person occupying the residence of the  
107 individual; and

108 (b) With respect to a person other than an individual:

109 1. Another person who directly or indirectly controls, is  
110 controlled by, or is under common control with the person;

111 2. An officer, director, manager, member, partner,  
112 employee, or trustee or other fiduciary of the person; or

113 3. A companion of an individual or an individual occupying  
114 the residence of an individual.

115 (2) "Companion" means:

116 (a) The spouse of an individual;

117 (b) The registered domestic partner of an individual; or

118 (c) Another individual in a civil union with an  
119 individual.

120 (3) "Court" means the court of general equity jurisdiction  
121 in this state.

122 (4) "Executory contract" means a contract, including a  
123 lease, under which each party has an unperformed obligation and  
124 the failure of a party to complete performance would constitute  
125 a material breach.

126        (5) "Governmental unit" means an office, department,  
 127 division, bureau, board, commission, or other agency of this  
 128 state or a subdivision of this state.

129        (6) "Lien" means an interest in property which secures  
 130 payment or performance of an obligation.

131        (7) "Mortgage" means a record, however denominated, that  
 132 creates or provides for a consensual lien on real property or  
 133 rents, even if the record also creates or provides for a lien on  
 134 personal property.

135        (8) "Mortgagee" means a person entitled to enforce an  
 136 obligation secured by a mortgage.

137        (9) "Mortgagor" means a person who grants a mortgage or a  
 138 successor in ownership of the real property described in the  
 139 mortgage.

140        (10) "Owner" means the person for whose property a  
 141 receiver is appointed.

142        (11) "Person" means an individual, estate, business or  
 143 nonprofit entity, public corporation, government or governmental  
 144 subdivision, agency, or instrumentality or other legal entity.

145        (12) "Proceeds" means any of the following property:

146        (a) Whatever is acquired on the sale, lease, license,  
 147 exchange, or other disposition of receivership property.

148        (b) Whatever is collected on, or distributed on account  
 149 of, receivership property.

150        (c) Rights arising out of receivership property.

151 (d) To the extent of the value of receivership property,  
152 claims arising out of the loss, nonconformity, or interference  
153 with the use of, defects or infringement of rights in, or damage  
154 to the property.

155 (e) To the extent of the value of receivership property  
156 and to the extent payable to the owner or mortgagee, insurance  
157 payable by reason of the loss or nonconformity of, defects or  
158 infringement of rights in, or damage to the property.

159 (13) "Property" means all of a person's right, title, and  
160 interest, both legal and equitable, in real and personal  
161 property, tangible and intangible, wherever located and however  
162 acquired. The term includes proceeds, products, offspring,  
163 rents, or profits of or from the property.

164 (14) "Receiver" means a person appointed by the court as  
165 the court's agent, and subject to the court's direction, to take  
166 possession of, manage, and, if authorized by this chapter or  
167 court order, transfer, sell, lease, license, exchange, collect,  
168 or otherwise dispose of receivership property.

169 (15) "Receivership" means a proceeding in which a receiver  
170 is appointed.

171 (16) "Receivership property" means the property of an  
172 owner which is described in the order appointing a receiver or a  
173 subsequent order. The term includes any proceeds, products,  
174 offspring, rents, or profits of or from the property.

175 (17) "Record," if used as a noun, means information that

176 is inscribed on a tangible medium or that is stored on an  
177 electronic or other medium and is retrievable in perceivable  
178 form.

179 (18) "Rents" means:

180 (a) Sums payable for the right to possess or occupy, or  
181 for the actual possession or occupation of, real property of  
182 another person;

183 (b) Sums payable to a mortgagor under a policy of rental-  
184 interruption insurance covering real property;

185 (c) Claims arising out of a default in the payment of sums  
186 payable for the right to possess or occupy real property of  
187 another person;

188 (d) Sums payable to terminate an agreement to possess or  
189 occupy real property of another person;

190 (e) Sums payable to a mortgagor for payment or  
191 reimbursement of expenses incurred in owning, operating, and  
192 maintaining real property or constructing or installing  
193 improvements on real property; or

194 (f) Other sums payable under an agreement relating to the  
195 real property of another person which constitute rents under the  
196 laws of this state other than this act.

197 (19) "Secured obligation" means an obligation the payment  
198 or performance of which is secured by a security agreement.

199 (20) "Security agreement" means an agreement that creates  
200 or provides for a lien.



201        (21) "Sign" means, with present intent to authenticate or  
 202 adopt a record:

203        (a) To execute or adopt a tangible symbol; or

204        (b) To attach to or logically associate with the record an  
 205 electronic sound, symbol, or process.

206        (22) "State" means a state of the United States, the  
 207 District of Columbia, Puerto Rico, the United States Virgin  
 208 Islands, or any territory or insular possession subject to the  
 209 jurisdiction of the United States.

210        714.03 Notice and opportunity for hearing.—

211        (1) Except as otherwise provided in subsection (2), the  
 212 court may issue an order under this chapter only after notice  
 213 and opportunity for a hearing that is appropriate under the  
 214 circumstances.

215        (2) The court may issue an order under this chapter  
 216 without written or oral notice to the adverse party only if:

217        (a) It appears from the specific facts shown by affidavit  
 218 or verified pleading or motion that immediate and irreparable  
 219 injury, loss, or damage will result to the movant or that waste,  
 220 dissipation, impairment, or substantial diminution in value will  
 221 result to the subject real property before any adverse party can  
 222 be heard in opposition; and

223        (b) The movant's attorney certifies in writing all efforts  
 224 that have been made to give notice to all known adverse parties,  
 225 or the reasons why such notice should not be required.

226       (3) Only an affidavit, a declaration or a verified  
227 pleading, or a motion may be used to support the application for  
228 the appointment of a receiver, unless the adverse party appears  
229 at the hearing or has received reasonable prior notice of the  
230 hearing. Every order appointing a receiver without notice must  
231 be endorsed with the date and hour of entry, must be filed  
232 forthwith in the clerk's office, must define the injury, must  
233 state findings by the court as to why the injury may be  
234 irreparable, and must give the reasons why the order was granted  
235 without notice if notice was not given. The order appointing a  
236 receiver shall remain in effect until the further order of the  
237 court.

238       (4) An order appointing a receiver or providing for  
239 injunctive relief may not be entered unless a bond is given by  
240 the movant in an amount the court deems proper, conditioned for  
241 the payment of costs and damages sustained by the adverse party  
242 if the order is improperly entered. When any order appointing a  
243 receiver or providing for injunctive relief is issued on the  
244 pleading of a municipality or the state, or any officer, agency,  
245 or political subdivision thereof, the court may require or  
246 dispense with a bond, with or without surety, and conditioned in  
247 the same manner, having due regard for the public interest.

248       (5) If the court grants injunctive relief, the injunction  
249 must specify the reasons for entry, must describe in reasonable  
250 detail the act or acts restrained without reference to a

251 pleading or another document, and must be binding on the parties  
252 to the action; on the parties' officers, agents, servants,  
253 employees, and attorneys; and on any person in active concert or  
254 participation with the parties who receives actual notice of the  
255 injunction.

256 (6) A party adversely affected by an order appointing  
257 receiver or for injunctive relief may move to dissolve or modify  
258 the order at any time. If a party moves to dissolve or modify,  
259 the motion shall be heard within 5 days after the movant applies  
260 for a hearing on the motion.

261 (7) This chapter does not displace any existing rule of  
262 procedural or judicial administration of this state governing  
263 service or notice, including, without limitation, Rule 1.070,  
264 Florida Rules of Civil Procedure and Rule 2.525, Florida Rules  
265 of Judicial Administration, which shall remain in full force and  
266 effect.

267 714.04 Scope; exclusions.-

268 (1) This chapter applies to a receivership initiated in a  
269 court of this state for an interest in real property and any  
270 personal property related to or used in operating the real  
271 property.

272 (2) This chapter does not apply to:

273 (a) Actions in which a state agency or officer is  
274 expressly authorized by statute to seek or obtain the  
275 appointment of a receiver;

276        (b) Actions authorized by or commenced under federal law;  
277        (c) Residential real property of an individual owner which  
278 is occupied by the owner, the spouse of the owner, or a child or  
279 other dependent of the owner;  
280        (d) Property of an individual exempt from forced sale,  
281 execution, or seizure under the laws of this state; or  
282        (e) Personal property of an individual which is used  
283 primarily for personal, family, or household purposes.  
284        (3) This chapter does not limit the authority of a court  
285 to appoint a receiver under the laws of this state other than  
286 this chapter.  
287        (4) This chapter does not limit an individual's homestead  
288 and exemption rights under the laws of this state or federal  
289 law.  
290        (5) Unless displaced by a particular provision of this  
291 chapter, the principles of law and equity, including the law  
292 relative to capacity to contract, principal and agent, estoppel,  
293 laches, fraud, misrepresentation, duress, coercion, mistake,  
294 bankruptcy, or other validating or invalidating cause,  
295 supplement this chapter.  
296        714.05 Power of the court.—The court that appoints a  
297 receiver under this chapter has exclusive jurisdiction to direct  
298 the receiver and determine any controversy related to the  
299 receivership or receivership property.  
300        714.06 Appointment of receiver.—

- 301       (1) The court may appoint a receiver:
- 302       (a) Before judgment, to protect a party that demonstrates  
303 an apparent right, title, or interest in real property that is  
304 the subject of the action, if the property or its revenue-  
305 producing potential:
- 306           1. Is being subjected to or is in danger of waste, loss,  
307 substantial diminution in value, dissipation, or impairment; or
- 308           2. Has been or is about to be the subject of a voidable  
309 transaction;
- 310       (b) After judgment:
- 311           1. To carry the judgment into effect; or
- 312           2. To preserve nonexempt real property pending appeal or  
313 when an execution has been returned unsatisfied and the owner  
314 refuses to apply the property in satisfaction of the judgment;
- 315       (c) In an action in which a receiver for real property may  
316 be appointed on equitable grounds, subject to the requirements  
317 of paragraphs (a) and (b); or
- 318       (d) During the time allowed for redemption, to preserve  
319 real property sold in an execution or foreclosure sale and  
320 secure its rents to the person entitled to the rents.
- 321       (2) In connection with the foreclosure or other  
322 enforcement of a mortgage, the court shall consider the  
323 following facts and circumstances, together with any other  
324 relevant facts, in deciding whether to appoint a receiver for  
325 the mortgaged property:

326 (a) Appointment is necessary to protect the property from  
327 waste, loss, substantial diminution in value, transfer,  
328 dissipation, or impairment;

329 (b) The owner agreed in a signed record to the appointment  
330 of a receiver on default;

331 (c) The owner agreed, after default and in a signed  
332 record, to appointment of a receiver;

333 (d) The property and any other collateral held by the  
334 mortgagee are not sufficient to satisfy the secured obligation;

335 (e) The owner fails to turn over to the mortgagee proceeds  
336 or rents the mortgagee was entitled to collect; or

337 (f) The holder of a subordinate lien obtains appointment  
338 of a receiver for the property.

339 (3) The court may condition the appointment of a receiver  
340 without prior notice or hearing under s. 714.03 on the giving of  
341 security by the movant for the payment of damages, reasonable  
342 attorney fees, and costs incurred or suffered by any person if  
343 the court later concludes that the appointment was not  
344 justified. If the court later concludes that the appointment was  
345 justified and the order of appointment of the receiver becomes  
346 final and no longer subject to appeal, the court shall release  
347 the security.

348 714.07 Disqualification from appointment as receiver;  
349 disclosure of interest.-

350 (1) The court may not appoint a person as receiver unless

351 the person submits to the court a statement under penalty of  
352 perjury that the person is not disqualified.

353 (2) Except as otherwise provided in subsection (3), a  
354 person is disqualified from appointment as receiver if the  
355 person:

356 (a) Is an affiliate of a party;

357 (b) Has an interest materially adverse to an interest of a  
358 party;

359 (c) Has a material financial interest in the outcome of  
360 the action, other than compensation the court may allow the  
361 receiver;

362 (d) Has a debtor-creditor relationship with a party; or

363 (e) Holds an equity interest in a party, other than a  
364 noncontrolling interest in a publicly traded company.

365 (3) A person is not disqualified from appointment as  
366 receiver solely because the person:

367 (a) Was appointed receiver or is owed compensation in an  
368 unrelated matter involving a party or was engaged by a party in  
369 a matter unrelated to the receivership;

370 (b) Is an individual obligated to a party on a debt that  
371 is not in default and was incurred primarily for personal,  
372 family, or household purposes; or

373 (c) Maintains with a party a deposit account, as defined  
374 in s. 679.1021.

375 (4) A person seeking appointment of a receiver may

376 nominate a person to serve as receiver, but the court is not  
377 bound by the nomination.

378 714.08 Receiver's bond; alternative security.-

379 (1) Except as otherwise provided in subsection (2), a  
380 receiver shall post with the court a bond that:

381 (a) Is conditioned on the faithful discharge of the  
382 receiver's duties;

383 (b) Has one or more sureties approved by the court;

384 (c) Is in an amount the court specifies; and

385 (d) Is effective as of the date of the receiver's  
386 appointment.

387 (2) The court may approve the receiver posting an  
388 alternative security with the court, such as a letter of credit  
389 or deposit of funds. The receiver may not use receivership  
390 property as alternative security. Interest that accrues on  
391 deposited funds must be paid to the receiver upon the receiver's  
392 discharge.

393 (3) The court may authorize a receiver to act before the  
394 receiver posts the bond or alternative security required by this  
395 section if the action is necessary to prevent or mitigate  
396 immediate injury, loss, or damage to the party who sought the  
397 appointment of the receiver, or immediate waste, dissipation,  
398 impairment, or substantial diminution in value to the  
399 receivership property.

400 (4) A claim against a receiver's bond or alternative



401 security must be made not later than 1 year after the date the  
402 receiver is discharged.

403 714.09 Status of receiver as lien creditor.—Upon  
404 appointment of a receiver, the receiver has the status of a lien  
405 creditor under:

406 (1) Chapter 679 as to receivership property or fixtures;  
407 and

408 (2) Chapter 695 as to receivership property that is real  
409 property.

410 714.10 Security agreement covering after-acquired  
411 property.—Except as otherwise provided by law other than this  
412 chapter, property that a receiver or an owner acquires after  
413 appointment of the receiver is subject to a security agreement  
414 entered into before the appointment to the same extent as if the  
415 court had not appointed the receiver.

416 714.11 Collection and turnover of receivership property.—

417 (1) Unless the court orders otherwise, on demand by a  
418 receiver:

419 (a) A person that owes a debt that is receivership  
420 property and is matured or payable on demand or on order shall  
421 pay the debt to or on the order of the receiver, except to the  
422 extent the debt is subject to setoff or recoupment; and

423 (b) Subject to subsection (3), a person that has  
424 possession, custody, or control of receivership property shall  
425 turn the property over to the receiver.

426           (2) A person that has notice of the appointment of a  
 427 receiver and owes a debt that is receivership property may not  
 428 satisfy the debt by payment to the owner.

429           (3) If a creditor has possession, custody, or control of  
 430 receivership property and the validity, perfection, or priority  
 431 of the creditor's lien on the property depends on the creditor's  
 432 possession, custody, or control, the creditor may retain  
 433 possession, custody, or control until the court orders adequate  
 434 protection of the creditor's lien.

435           (4) Unless a bona fide dispute exists about a receiver's  
 436 right to possession, custody, or control of receivership  
 437 property, the court may sanction as civil contempt a person's  
 438 failure to turn the property over when required by this section.

439           714.12 Powers and duties of receiver.—

440           (1) Except as limited by court order or the laws of this  
 441 state other than this chapter, a receiver may:

442           (a) Collect, control, manage, conserve, and protect  
 443 receivership property;

444           (b) Operate a business constituting receivership property,  
 445 including preservation, use, sale, lease, license, exchange,  
 446 collection, or disposition of the property in the ordinary  
 447 course of business;

448           (c) In the ordinary course of business, incur unsecured  
 449 debt and pay expenses incidental to the receiver's preservation,  
 450 use, sale, lease, license, exchange, collection, or disposition

451 of receivership property;

452 (d) Assert a right, claim, cause of action, or defense of  
453 the owner which relates to receivership property;

454 (e) Seek and obtain instruction from the court concerning  
455 receivership property, exercise of the receiver's powers, and  
456 performance of the receiver's duties;

457 (f) Upon subpoena, compel a person to submit to  
458 examination under oath, or to produce and permit inspection and  
459 copying of designated records or tangible things, with respect  
460 to receivership property or any other matter that may affect  
461 administration of the receivership;

462 (g) Engage a professional pursuant to s. 714.15;

463 (h) Apply to a court of another state for appointment as  
464 ancillary receiver with respect to receivership property located  
465 in that state; and

466 (i) Exercise any power conferred by court order, this  
467 chapter, or the laws of this state other than this chapter.

468 (2) With court approval, a receiver may:

469 (a) Incur debt for the use or benefit of receivership  
470 property other than in the ordinary course of business;

471 (b) Make improvements to receivership property;

472 (c) Use or transfer receivership property other than in  
473 the ordinary course of business pursuant to s. 714.16;

474 (d) Adopt or reject an executory contract of the owner  
475 pursuant to s. 714.17;

476 (e) Pay compensation to the receiver pursuant to s.  
477 714.21, and to each professional engaged by the receiver under  
478 s. 714.15;

479 (f) Recommend allowance or disallowance of a claim of a  
480 creditor pursuant to s. 714.20; and

481 (g) Make a distribution of receivership property pursuant  
482 to s. 714.20.

483 (3) A receiver shall:

484 (a) Prepare and retain appropriate business records,  
485 including a record of each receipt, disbursement, and  
486 disposition of receivership property;

487 (b) Account for receivership property, including the  
488 proceeds of a sale, lease, license, exchange, collection, or  
489 other disposition of the property;

490 (c) File with the recording office of the county in which  
491 the real property is located a copy of the order appointing the  
492 receiver and, if a legal description of the real property is not  
493 included in the order, the legal description;

494 (d) Disclose to the court any fact arising during the  
495 receivership which would disqualify the receiver under s.  
496 714.07; and

497 (e) Perform any duty imposed by court order, this chapter,  
498 or the laws of this state other than this chapter.

499 (4) The powers and duties of a receiver may be expanded,  
500 modified, or limited by court order.

501           714.13 Duties of owner.—  
 502           (1) An owner shall:  
 503           (a) Assist and cooperate with the receiver in the  
 504 administration of the receivership and the discharge of the  
 505 receiver's duties;  
 506           (b) Preserve and turn over to the receiver all  
 507 receivership property in the owner's possession, custody, or  
 508 control;  
 509           (c) Identify all records and other information relating to  
 510 the receivership property, including a password, authorization,  
 511 or other information needed to obtain or maintain access to or  
 512 control of the receivership property, and make available to the  
 513 receiver the records and information in the owner's possession,  
 514 custody, or control;  
 515           (d) Upon subpoena, submit to examination under oath by the  
 516 receiver concerning the acts, conduct, property, liabilities,  
 517 and financial condition of the owner or any matter relating to  
 518 the receivership property or the receivership; and  
 519           (e) Perform any duty imposed by court order, this chapter,  
 520 or the laws of this state other than this chapter.  
 521           (2) If an owner is a person other than an individual, this  
 522 section applies to each officer, director, manager, member,  
 523 partner, trustee, or other person exercising or having the power  
 524 to exercise control over the affairs of the owner.  
 525           (3) If a person knowingly fails to perform a duty imposed

526 by this section, the court may:

527 (a) Award the receiver actual damages caused by the  
528 person's failure, reasonable attorney fees, and costs; and

529 (b) Sanction the failure as civil contempt.

530 714.14 Stay; injunction.—

531 (1) Except as otherwise provided in subsection (4), after  
532 notice and a hearing, the court may enter an order providing for  
533 a stay, applicable to all persons, of any act, action, or  
534 proceeding:

535 (a) To obtain possession of, exercise control over, or  
536 enforce a judgment against all or a portion of the receivership  
537 property as defined in the order creating the stay; and

538 (b) To enforce a lien against all or a portion of the  
539 receivership property to the extent the lien secures a claim  
540 against the owner which arose before entry of the order.

541  
542 The court shall include in its order a specific description of  
543 the receivership property subject to the stay, and shall include  
544 the following language in the title of the order: "Order Staying  
545 Certain Actions to Enforce Claims against Receivership  
546 Property."

547 (2) Except as otherwise provided in subsection (4), the  
548 court may enjoin an act, action, or proceeding against or  
549 relating to receivership property if the injunction is necessary  
550 to protect against misappropriation of, or waste relating

551 directly to, the receivership property.

552 (3) A person whose act, action, or proceeding is stayed or  
553 enjoined under this section may apply to the court for relief  
554 from the stay or injunction. The court, after a hearing on  
555 notice, may grant relief for cause shown.

556 (4) An order under subsection (1) or subsection (2) does  
557 not operate as a stay or injunction of:

558 (a) Any act, action, or proceeding to foreclose or  
559 otherwise enforce a mortgage by the person seeking appointment  
560 of the receiver;

561 (b) Any act, action, or proceeding to perfect, or maintain  
562 or continue the perfection of, an interest in receivership  
563 property;

564 (c) Commencement or continuation of a criminal proceeding;

565 (d) Commencement or continuation of an action or  
566 proceeding, or enforcement of a judgment other than a money  
567 judgment, in an action or proceeding by a governmental unit to  
568 enforce its police or regulatory power; or

569 (e) Establishment by a governmental unit of a tax  
570 liability against the receivership property or the owner of such  
571 receivership property, or an appeal of any such liability.

572 (5) The court may void an act that violates a stay or  
573 injunction under this section.

574 (6) The scope of the receivership property subject to the  
575 stay under subsection (1) may be modified upon request of the

576 receiver or other person, after a hearing on notice.

577 (7) In connection with the entry of an order under  
 578 subsection (1) or subsection (2), the court shall determine  
 579 whether an additional bond or alternative security will be  
 580 required as a condition to entry of the stay or injunction and,  
 581 if required, direct the party requesting the stay or injunction  
 582 to post a bond or alternative security as a condition for the  
 583 stay or injunction to become effective.

584 714.15 Engagement and compensation of professional.-

585 (1) With court approval, a receiver may engage an  
 586 attorney, an accountant, an appraiser, an auctioneer, a broker,  
 587 or another professional to assist the receiver in performing a  
 588 duty or exercising a power of the receiver. The receiver shall  
 589 disclose to the court:

- 590 (a) The identity and qualifications of the professional;
- 591 (b) The scope and nature of the proposed engagement;
- 592 (c) Any potential conflict of interest; and
- 593 (d) The proposed compensation.

594 (2) A person is not disqualified from engagement under  
 595 this section solely because of the person's engagement by,  
 596 representation of, or other relationship with the receiver, a  
 597 creditor, or a party. This chapter does not prevent the receiver  
 598 from serving in the receivership as an attorney, an accountant,  
 599 an auctioneer, or a broker when authorized by law.

600 (3) A receiver or professional engaged under subsection



601 (1) shall file with the court an itemized statement of the time  
602 spent, work performed, and billing rate of each person that  
603 performed the work and an itemized list of expenses. The  
604 receiver shall pay the amount approved by the court.

605 714.16 Use or transfer of receivership property not in  
606 ordinary course of business.—

607 (1) For the purposes of this section, the term "good  
608 faith" means honesty in fact and the observance of reasonable  
609 commercial standards of fair dealing.

610 (2) Before judgment is entered with respect to the  
611 receivership property, with court approval after notice to all  
612 parties with an interest in the property, including all lien  
613 holders, and a hearing, a receiver may use or transfer by sale,  
614 lease, license, exchange, or other disposition receivership  
615 property other than in the ordinary course of business only if  
616 the owner of the property:

617 (a) After the commencement of the action in which the  
618 receiver is appointed, expressly consents to the receiver's  
619 proposed use or transfer of the receivership property, and the  
620 receiver notes the property owner's express consent in the  
621 motion to approve the proposed use or transfer; or

622 (b) Before or at the hearing on the receiver's motion to  
623 approve the use or transfer of the receivership property, fails  
624 to object thereto after the receiver in good faith has provided  
625 reasonable advance written notice to the property owner of the

626 proposed use or transfer, and the receiver demonstrates in the  
627 motion that the proposed use or transfer is necessary to prevent  
628 waste, loss, substantial diminution in value, dissipation, or  
629 impairment of the property or its revenue-producing potential or  
630 to prevent a voidable transaction involving the property.

631  
632 Service of notice to lien holders who are not parties to the  
633 action must be made as provided in chapter 48 for service of  
634 original process. If service cannot be carried out in such  
635 manner, upon authorization by court order, the receiver may  
636 effect service of notice on the nonparty lien holder pursuant to  
637 chapter 49 or as otherwise ordered by the court.

638 (3) After judgment is entered against the property owner  
639 and with court approval, a receiver may use or transfer  
640 receivership property other than in the ordinary course of  
641 business to carry the judgment into effect or to preserve  
642 nonexempt real property pending appeal or when an execution has  
643 been returned unsatisfied and the owner refuses to apply the  
644 property in satisfaction of the judgment.

645 (4) The court may order that a transfer of receivership  
646 property under this section is free and clear of any liens on  
647 the property at the time of the transfer. In such case, any  
648 liens on the property, which were valid at the time of the  
649 transfer but extinguished by the transfer, attach to the  
650 proceeds of the transfer with the same validity, perfection, and

651 priority the liens had on the property immediately before the  
652 transfer, even if the proceeds are not sufficient to satisfy all  
653 obligations secured by the liens.

654 (5) A transfer under subsection (3) may occur by means  
655 other than a public auction sale. A creditor holding a valid  
656 lien on the property to be transferred may purchase the property  
657 and offset against the purchase price part or all of the allowed  
658 amount secured by the lien if the creditor tenders funds  
659 sufficient to satisfy in full the reasonable expenses of  
660 transfer and the obligation secured by any senior lien  
661 extinguished by the transfer.

662 (6) A reversal or modification of an order approving a  
663 transfer under subsection (3) does not affect the validity of  
664 the transfer to a person that acquired the property in good  
665 faith or revive against the person any lien extinguished by the  
666 transfer, whether the person knew before the transfer of the  
667 request for reversal or modification, unless the court stayed  
668 the order before the transfer.

669 714.17 Executory contract.—

670 (1) For the purposes of this section, the term "timeshare  
671 interest" has the same meaning as in s. 721.05(36).

672 (2) Except as otherwise provided in subsection (8), with  
673 court approval, a receiver may adopt or reject an executory  
674 contract of the owner relating to receivership property. The  
675 court may condition the receiver's adoption and continued

676 performance of the contract on terms appropriate under the  
677 circumstances. If the receiver does not request court approval  
678 to adopt or reject the contract within a reasonable time after  
679 the receiver's appointment, the receiver is deemed to have  
680 rejected the contract.

681 (3) A receiver's performance of an executory contract  
682 before court approval under subsection (2) of its adoption or  
683 rejection is not an adoption of the contract and does not  
684 preclude the receiver from seeking approval to reject the  
685 contract.

686 (4) A provision in an executory contract which requires or  
687 permits a forfeiture, modification, or termination of the  
688 contract because of the appointment of a receiver or the  
689 financial condition of the owner does not affect a receiver's  
690 power under subsection (2) to adopt the contract.

691 (5) A receiver's right to possess or use receivership  
692 property pursuant to an executory contract terminates on  
693 rejection of the contract under subsection (2). Rejection is a  
694 breach of the contract effective immediately before appointment  
695 of the receiver. A claim for damages for rejection of the  
696 contract must be submitted by the later of:

697 (a) The time set for submitting a claim in the  
698 receivership; or

699 (b) Thirty days after the court approves the rejection.

700 (6) If at the time a receiver is appointed, the owner has

701 the right to assign an executory contract relating to  
702 receivership property under the laws of this state other than  
703 this chapter, the receiver may assign the contract with court  
704 approval.

705 (7) If a receiver rejects an executory contract for the  
706 sale of receivership property that is real property in  
707 possession of the purchaser or a real-property timeshare  
708 interest pursuant to subsection (2), the purchaser may:

709 (a) Treat the rejection as a termination of the contract,  
710 and in that case the purchaser has a lien on the property for  
711 the recovery of any part of the purchase price the purchaser  
712 paid; or

713 (b) Retain the purchaser's right to possession under the  
714 contract. If the purchaser retains his or her right to  
715 possession pursuant to this paragraph, the purchaser must  
716 continue to perform all obligations arising under the contract  
717 and may offset any damages caused by nonperformance of an  
718 obligation of the owner after the date of the rejection, but the  
719 purchaser does not have a right or claim against other  
720 receivership property or the receiver on account of the damages.

721 (8) A receiver may not reject an unexpired lease of real  
722 property under which the owner is the landlord if:

723 (a) The tenant occupies the leased premises as the  
724 tenant's primary residence;

725 (b) The receiver was appointed at the request of a person

726 other than a mortgagee; or

727 (c) The receiver was appointed at the request of a  
728 mortgagee and:

729 1. The lease is superior to the lien of the mortgage;

730 2. The tenant has an enforceable agreement with the  
731 mortgagee or the holder of a senior lien under which the  
732 tenant's occupancy will not be disturbed as long as the tenant  
733 performs its obligations under the lease;

734 3. The mortgagee has consented to the lease, either in a  
735 signed record or by its failure to timely object that the lease  
736 violated the mortgage; or

737 4. The terms of the lease were commercially reasonable at  
738 the time the lease was agreed to and the tenant did not know or  
739 have reason to know that the lease violated the mortgage.

740 714.18 Defenses and immunities of receiver.—

741 (1) A receiver is entitled to all defenses and immunities  
742 provided by the laws of this state other than this chapter for  
743 an act or omission within the scope of the receiver's  
744 appointment.

745 (2) A receiver may be sued personally for an act or  
746 omission in administering receivership property only with  
747 approval of the court that appointed the receiver.

748 714.19 Interim report of receiver.—A receiver may file or,  
749 if ordered by the court, shall file an interim report that  
750 includes:

751           (1) The activities of the receiver since appointment or a  
 752 previous report;

753           (2) Receipts and disbursements, including a payment made  
 754 or proposed to be made to a professional engaged by the  
 755 receiver;

756           (3) Receipts and dispositions of receivership property;

757           (4) Fees and expenses of the receiver and, if not filed  
 758 separately, a request for approval of payment of the fees and  
 759 expenses; and

760           (5) Any other information required by the court.

761           714.20 Notice of appointment; claim against receivership;  
 762 distribution to creditors.-

763           (1) Except as otherwise provided in subsection (6), a  
 764 receiver shall give notice of appointment of the receiver to  
 765 creditors of the owner by:

766           (a) Deposit for delivery through first-class mail or other  
 767 commercially reasonable delivery method to the last known  
 768 address of each creditor; and

769           (b) Publication as directed by the court.

770           (2) Except as otherwise provided in subsection (6), the  
 771 notice required under subsection (1) must specify the date by  
 772 which each creditor holding a claim against the owner which  
 773 arose before appointment of the receiver must submit the claim  
 774 to the receiver. The date specified must be at least 90 days  
 775 after the later of notice under paragraph (1) (a) or last

776 publication under paragraph (1) (b). The court may extend the  
777 period for submitting the claim. Unless the court orders  
778 otherwise, a claim that is not timely submitted is not entitled  
779 to a distribution from the receivership.

780 (3) A claim submitted by a creditor under this section  
781 must:

782 (a) State the name and address of the creditor;

783 (b) State the amount and basis of the claim;

784 (c) Identify any property securing the claim;

785 (d) Be signed by the creditor under penalty of perjury;

786 and

787 (e) Include a copy of any record on which the claim is  
788 based.

789 (4) An assignment by a creditor of a claim against the  
790 owner is effective against the receiver only if the assignee  
791 gives timely notice of the assignment to the receiver in a  
792 signed record.

793 (5) At any time before entry of an order approving a  
794 receiver's final report, the receiver may file with the court an  
795 objection to a claim of a creditor, stating the basis for the  
796 objection. The court shall allow or disallow the claim according  
797 to the laws of this state other than this chapter.

798 (6) If the court concludes that receivership property is  
799 likely to be insufficient to satisfy claims of each creditor  
800 holding a perfected lien on the property, the court may order



801 that:

802 (a) The receiver need not give notice under subsection (1)  
803 of the appointment to all creditors of the owner, but only such  
804 creditors as the court directs; and

805 (b) Unsecured creditors need not submit claims under this  
806 section.

807 (7) Subject to s. 714.21:

808 (a) A distribution of receivership property to a creditor  
809 holding a perfected lien on the property must be made in  
810 accordance with the creditor's priority under the laws of this  
811 state other than this chapter; and

812 (b) A distribution of receivership property to a creditor  
813 with an allowed unsecured claim must be made as the court  
814 directs according to the laws of this state other than this  
815 chapter.

816 714.21 Fees and expenses.—

817 (1) The court may award a receiver from receivership  
818 property the reasonable and necessary fees and expenses of  
819 performing the duties of the receiver and exercising the powers  
820 of the receiver.

821 (2) The court may order one or more of the following to  
822 pay the reasonable and necessary fees and expenses of the  
823 receivership, including reasonable attorney fees and costs:

824 (a) A person that requested the appointment of the  
825 receiver, if the receivership does not produce sufficient funds

826 | to pay the fees and expenses; or

827 |       (b) A person whose conduct justified or would have

828 | justified the appointment of the receiver under s. 714.06(1)(a).

829 |       714.22 Removal of receiver; replacement; termination of

830 | receivership.-

831 |       (1) The court may remove a receiver for cause.

832 |       (2) The court shall replace a receiver that dies, resigns,

833 | or is removed.

834 |       (3) If the court finds that a receiver that resigns or is

835 | removed, or the representative of a receiver that is deceased,

836 | has accounted fully for and turned over to the successor

837 | receiver all receivership property and has filed a report of all

838 | receipts and disbursements during the service of the replaced

839 | receiver, the replaced receiver is discharged.

840 |       (4) The court may discharge a receiver and terminate the

841 | court's administration of the receivership property if the court

842 | finds that appointment of the receiver was improvident or that

843 | the circumstances no longer warrant continuation of the

844 | receivership. If the court finds that the appointment was sought

845 | wrongfully or in bad faith, the court may assess against the

846 | person that sought the appointment:

847 |       (a) The fees and expenses of the receivership, including

848 | reasonable attorney fees and costs; and

849 |       (b) Actual damages caused by the appointment, including

850 | reasonable attorney fees and costs.

851 714.23 Final report of receiver; discharge.-

852 (1) Upon completion of a receiver's duties, the receiver  
853 shall file a final report including:

854 (a) A description of the activities of the receiver in the  
855 conduct of the receivership;

856 (b) A list of receivership property at the commencement of  
857 the receivership and any receivership property received during  
858 the receivership;

859 (c) A list of disbursements, including payments to  
860 professionals engaged by the receiver;

861 (d) A list of dispositions of receivership property;

862 (e) A list of distributions made or proposed to be made  
863 from the receivership for creditor claims;

864 (f) If not filed separately, a request for approval of the  
865 payment of fees and expenses of the receiver; and

866 (g) Any other information required by the court.

867 (2) If the court approves a final report filed under  
868 subsection (1) and the receiver distributes all receivership  
869 property, the receiver is discharged.

870 714.24 Receivership in another state; ancillary  
871 proceeding.-

872 (1) The court may appoint a receiver appointed in another  
873 state, or that person's nominee, as an ancillary receiver with  
874 respect to property located in this state or subject to the  
875 jurisdiction of the court for which a receiver could be

876 appointed under this chapter, if:

877 (a) The person or nominee would be eligible to serve as  
 878 receiver under s. 714.07; and

879 (b) The appointment furthers the person's possession,  
 880 custody, control, or disposition of property subject to the  
 881 receivership in the other state.

882 (2) The court may issue an order that gives effect to an  
 883 order entered in another state appointing or directing a  
 884 receiver.

885 (3) Unless the court orders otherwise, an ancillary  
 886 receiver appointed under subsection (1) has the rights, powers,  
 887 and duties of a receiver appointed under this chapter.

888 714.25 Effect of enforcement by mortgagee.—A request by a  
 889 mortgagee for the appointment of a receiver, the appointment of  
 890 a receiver, or the application by a mortgagee of receivership  
 891 property or proceeds to the secured obligation does not:

892 (1) Make the mortgagee a mortgagee in possession of the  
 893 real property;

894 (2) Make the mortgagee an agent of the owner;

895 (3) Constitute an election of remedies which precludes a  
 896 later action to enforce the secured obligation;

897 (4) Make the secured obligation unenforceable;

898 (5) Limit any right available to the mortgagee with  
 899 respect to the secured obligation; or

900 (6) Constitute an action under chapter 702.

901        714.26 Uniformity of application and construction.—In  
902 applying and construing this chapter, consideration must be  
903 given to the need to promote uniformity of the law with respect  
904 to its subject matter among states that have enacted a similar  
905 law.

906        714.27 Relation to electronic signatures in global and  
907 national commerce act.—This act modifies, limits, or supersedes  
908 the Electronic Signatures in Global and National Commerce Act,  
909 15 U.S.C. ss. 7001 et seq., but does not modify, limit, or  
910 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or  
911 authorize electronic delivery of any of the notices described in  
912 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

913        714.28 Transition.—This chapter does not apply to a  
914 receivership for which the receiver was appointed before July 1,  
915 2020.

916        Section 2. This act shall take effect July 1, 2020.