

Hotel Revenues Are "Rents" Under New Michigan Law

July 5, 2022

On June 24, 2022, **Michigan passed the Michigan Uniform Assignment of Rents Act** (MUARA). When it did, Michigan became the first state with a Uniform Assignment of Rents Act that expands the definition of "rents" to include hotel revenues.[1] This distinction makes a significant difference and, perhaps surprisingly, is not clear in many states.

Michigan had not previously addressed this question directly. Although lenders in Michigan and elsewhere often act as though hotel receipts are rents, the majority position among courts is actually that hotel room revenues are personal property.[2] Whether they are rents or personal property changes how a lender perfects and enforces its interest: security interests in rents are typically perfected through recording a mortgage or assignment of rents, while personal property security interests are established in accordance with the Uniform Commercial Code (UCC). For example, if rents are personal property, a lender with a recorded mortgage or deed of trust who inadvertently files a financing statement in the wrong state or allows it to lapse might find itself behind other creditors in priority as to the hotel's revenue stream.

With the MUARA, Michigan provides lodging lenders with a level of comfort that does not exist in many other states. The MUARA applies to any loan that is enforced after its enactment, even loans made before its enactment.[3] This may affect how loans secured by such properties are underwritten, documented, and enforced going forward. Critically, though, multistate loans will still require examining each State's law separately.

This is part of our continuing series of alerts regarding the MUARA. Should you have any questions about this first-of-its-kind statutory right, or otherwise regarding the MUARA, please feel free to contact your Miller Canfield attorney or the authors of this alert.

[1] Public Act 115 of 2022, § 2(m)(vi). Nevada, New Mexico, Texas, Utah, and North Dakota have also implemented versions of the Uniform Assignment of Rents Act, but at most contain general "catch-all" language.

[2] See, e.g., *In re Ocean Place Dev., LLC*, 447 B.R. 726, 732-33 (Bankr. D. N.J. 2011).

[3] Public Act 115 of 2022, § 19(1).