

## Receiverships Under Michigan's New Assignment of Rents Act

---

July 26, 2022

The Michigan Uniform Assignment of Rents Act ("MUARA"), which takes effect on September 22, 2022, strengthens both the right to obtain a receiver and the power of the receiver to collect past due rent. The MUARA also confirms the right to foreclose by advertisement at the same time that a receiver is appointed.

Secured lenders often seek the appointment of receivers to manage income-producing property after a default. The proper handling of rents will help determine whether a distressed property may be successfully rehabilitated. The MUARA clarifies that a receiver is entitled to collect rents that have accrued but remain unpaid on the date the assignment of rents is enforced, as well as collect rents that later accrue. Moreover, the lender is entitled to the appointment of a receiver if the borrower is in default and any of the following apply:

- The borrower has agreed in a signed document to the appointment of a receiver upon the borrower's default;
- It appears likely that the property may not be sufficient to satisfy the secured obligation;
- The borrower has failed to turn over to the lender proceeds that the lender is entitled to collect under the MUARA;  
or
- A subordinate assignee of rents obtains the appointment of a receiver for the property.

Notably, the MUARA confirms that a lender may seek the appointment of a receiver while contemporaneously foreclosing by advertisement under MCL 600.3201 *et seq.* The MUARA expressly permits a lender to seek a receiver in connection with any of the following actions:

- To foreclose the security instrument;
- For specific performance of the assignment of rents;
- To seek a remedy based on waste of the property; or
- To otherwise enforce the secured obligation or the lender's remedies arising from the assignment.[1]

A companion bill amends Michigan's foreclosure by advertisement statute to confirm that an action under the MUARA to enforce an assignment of rents is not an action to recover a debt that would prevent a lender from foreclosing by advertisement.

This is one of a series of articles about the MUARA by Miller Canfield. For questions about this alert, or for more information about the MUARA, please feel free to contact us.

[1] The MUARA also recognizes that a lender may seek, and is entitled to, appointment of a receiver under other circumstances that permit a receiver to be appointed under other applicable Michigan law. See Public Act No. 115 of 2022, Sections 7(1)(b) and 7(2)(e). An example of other applicable Michigan law is the Michigan Receivership Act, MCL 554.1011 *et seq.*

### Related resources:

Continued

---

- How Michigan's New Assignment of Rents Act Affects Commercial Tenants
- When Do Secured Lenders Have to Pay for Operating Expenses?
- Hotel Revenues Are "Rents" Under New Michigan Law
- Foreclosure Does Not Extinguish Assignment of Rents
- Michigan Adopts Its Version of the Uniform Assignment of Rents Act