

SENATE BILL 5077

State of Washington

52nd Legislature

1991 Regular Session

By Senators Nelson and Rasmussen.

Read first time January 18, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to recording security interests; and amending RCW
2 7.28.230.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 7.28.230 and 1989 c 73 s 1 are each amended to read as
5 follows:

6 (1) A mortgage of any interest in real property shall not be deemed
7 a conveyance so as to enable the owner of the mortgage to recover
8 possession of the real property, without a foreclosure and sale
9 according to law: PROVIDED, That nothing in this section shall be
10 construed as any limitation upon the right of the owner of real
11 property to mortgage, pledge or assign the rents and profits thereof,
12 nor as prohibiting the mortgagee, pledgee or assignee of such rents and
13 profits, or any trustee under a mortgage or trust deed either
14 contemporaneously or upon the happening of a future event of default,
15 from entering into possession of any real property, other than farm

1 lands or the homestead of the mortgagor or his successor in interest,
2 for the purpose of collecting the rents and profits thereof for
3 application in accordance with the provisions of the mortgage or trust
4 deed or other instrument creating the lien, nor as any limitation upon
5 the power of a court of equity to appoint a receiver to take charge of
6 such real property and collect such rents and profits thereof for
7 application in accordance with the terms of such mortgage, trust deed
8 or assignment.

9 (2) Until paid, the rents and profits of real property constitute
10 real property for the purposes of mortgages, trust deeds or assignments
11 whether or not said rents and profits have accrued. The provisions of
12 RCW 65.08.070 as now or hereafter amended shall be applicable to such
13 rents and profits, and such rents and profits are excluded from Article
14 62A.9 RCW.

15 (3) The recording of an assignment, mortgage, or pledge of unpaid
16 rents and profits of real property, intended as security, in accordance
17 with RCW 65.08.070, shall immediately perfect the security interest in
18 the assignee, mortgagee, or pledgee and shall not require any further
19 action by the holder of the security interest to be perfected as to any
20 subsequent purchaser, mortgagee, or assignee. Any lien created by such
21 assignment, mortgage, or pledge shall, when recorded, be deemed
22 specific, perfected, and choate even if recorded prior to July 23,
23 1989.