
Judiciary Committee

SSB 6189

Title: An act relating to receiverships.

Brief Description: Regulating receiverships.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline, Esser and Roach).

Brief Summary of Substitute Bill

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| <ul style="list-style-type: none">• Codifies, consolidates, and clarifies the various powers, duties, and procedures applicable to receivers and receiverships. |
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Hearing Date: 2/19/04

Staff: Trudes Tango Hutcheson (786-7384).

Background:

A receiver is a person appointed by the court, as an officer of the court, to take charge of property in certain circumstances and to manage and dispose of the property as the court directs. A receivership is not an independent remedy or an action in itself. The appointment of a receiver is an ancillary procedure to the main action and is simply a means by which the court takes control of and administers property that is in controversy, with the view of ultimately granting some final relief to the parties.

The court has discretion to appoint a receiver in a wide variety of circumstances, such as in an action between persons jointly interested in property, actions where the property is in danger of being removed, or when a corporation has been dissolved.

A receivership may be custodial in nature or more substantive, such as a receiver for an insolvent corporation who may, among other things, liquidate the property and distribute the proceeds to pay creditors. Generally, claims against property in receivership retain their priority rights as established by law and as fixed at the time of the appointment of the receiver.

The parties, their attorneys, and other persons interested in the action are not eligible to serve as receivers. The receiver must execute a bond to secure the receiver's faithful performance of his or her duties as a receiver.

The current receivership act, Chapter 7.60 RCW, consists of five relatively short sections, most of which were originally enacted over 150 years ago. Over time there have been numerous statutes

enacted throughout the code that authorize the appointment of a receiver under various circumstances. In addition, courts have developed some case law addressing some issues of receiverships that are not explicitly addressed in the statutes.

Summary of Bill:

The provisions generally governing receivership proceedings are consolidated into a single chapter. The circumstances under which a court may appoint a receiver is listed in a single section, and cross-references to the specific statutes are provided.

Provisions are created to distinguish between "general receivers" who have control over all or substantially all of a person's property and have authority to liquidate that property, and "custodial receivers" who take charge of limited or specific property or do not have the authority to liquidate property.

The procedures, notice, and time lines for the appointment of receivers are specified. Any person may serve as a receiver unless the person has been convicted or is controlled by a person convicted of a felony or other crime of moral turpitude, is a party to the action or has a special relationship to a party, has an adverse interest to a party affected by the receivership, or is a sheriff of any county.

The powers and duties of receivers are specified. The power of a receiver in a general liquidating receivership to assume or reject executory contracts and unexpired leases is codified. The power of a general liquidating receiver to sell property free and clear of liens is clarified.

The nature and form of the bond receivers must provide is specified, and a court may approve alternative security. The personal liability of a receiver is specified, based on current case law. The limitations and restrictions applicable to receiverships specifically provided for under current law are codified.

Provisions are established to impose a temporary stay of certain creditor actions in cases in which all of a person's property is placed in the hands of a receiver. Any person subject to the stay may seek relief from the stay for good cause shown. A comprehensive claims procedure and system of priorities in general liquidating receiverships is established.

Statutes dealing with general assignments for the benefit of creditors are amended to include the procedures applicable to the judicial administration of an assignee's administration and liquidation of assets into those procedures applicable in a general liquidating receivership.

Other provisions regarding receivers and receiverships are included, and duplicative, inconsistent and archaic statutes are repealed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.