

SENATE BILL REPORT

SB 6353

As Reported by Senate Committee On:
Judiciary, January 15, 2010

Title: An act relating to technical changes concerning receivership statutes.

Brief Description: Providing technical changes concerning receivership statutes.

Sponsors: Senator Kline.

Brief History:

Committee Activity: Judiciary: 1/15/10 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon, Kohl-Welles and Roach.

Staff: Karen Campbell (786-7448)

Background: A receiver is a person appointed by the court to take possession of, manage, or dispose of a person's property. There are several situations which allow for the appointment of a receiver but, in some cases, a receiver can be appointed to preserve property of a debtor pending an action against him. A receiver can also be appointed by the court when there is a danger that property will be lost, removed, or injured in the face of a creditor's claim against the property. Notice of a trustee's sale of a person's property can trigger the appointment of a receiver. A trustee is a person holding property in trust.

A receiver has to file a list of the person's creditors and property within 20 days of appointment. Creditor claims up to \$2,000 for wages, salaries, and commissions earned within 90 days of the appointment of the receiver have priority over most other claims. There is a priority up to \$900 for consumer deposits. A receiver has 20 days to give notice of his or her appointment to creditors and other interested parties.

A contract with the state is deemed to be rejected unless it is assumed by the receiver within 60 days of the receiver's appointment. The state and the receiver can agree to the assumption of the contract.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Under the Act, a receiver can be appointed after the notice of default is given concerning property. This typically occurs before a trustee sale. The Act adds a new section which allows the court to expand or shorten the time frames within the chapter for good cause. Contracts with the state can be assumed after the 60-day requirement has passed for good cause. The Act extends the time period required for the receiver to file creditor and property lists from 20 to 35 days. Creditor claims up to \$10,950 for wages, salaries, and commissions earned within 180 days of the appointment of the receiver have priority over most other claims. The priority amount is increased to \$2,425 for consumer deposits.

A receiver has 30 days to give notice of his or her appointment to creditors and other interested parties.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The changes requested in the receiver statutes should be adopted because they correct problems encountered by attorneys who regularly practice in this area of the law. For example, the act clarifies that the original proceeding, in which the receiver was appointed, is not stayed by such appointment. The provision of the act which allows the court to enlarge or shorten the time periods for good cause is similar to what is contained in the Bankruptcy Code. Allowing a receiver to be appointed after the notice of default is given, rather than after the notice of trustee sale is more consistent with practice prior to the 2004 amendments, correcting an inadvertent change under the prior amendments.

Persons Testifying: PRO: Tom Linde, Washington State Bar Association.