

FINAL BILL REPORT

SSB 6189

PARTIAL VETO

C 165 L 04

Synopsis as Enacted

Brief Description: Regulating receiverships.

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

Senate Committee on Judiciary
House Committee on Judiciary

Background: A receiver is a person appointed by a court to take charge, as the court's own agent, over property of a party. A receivership is the means by which a court takes property into custody pending litigation. A receiver in appropriate circumstances may be appointed over all of a person's assets, and given the power to liquidate those assets for the general benefit of creditors. In other circumstances, a receiver may serve simply a caretaking role. Washington's current receivership chapter consists of five sections, most of which were originally enacted by the Territorial Legislature over 150 years ago.

Summary: The rules generally governing receivership proceedings are consolidated into a single chapter. Chapter 7.08 RCW, dealing with general assignments for the benefit of creditors, is modified to include the procedures applicable to the judicial administration of an assignee's administration and liquidation of assets into those applicable in a general liquidating receivership. The rules applied to general liquidating receiverships versus the rules applied when a receiver serves a temporary custodial function are clarified.

As an aid to practitioners, a single section is created to list all circumstances in which a receiver's appointment is permissible. 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 moral turpitude (dishonesty of a high degree), is a party to 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 nature and form of bond required of receivers is specified.

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. Provisions of a contract specifying the consequences of a party's bankruptcy that would prevent a receiver from assuming a contract are made unenforceable. The power of a general liquidating receiver to sell property free and clear of liens is clarified.

The redemption rights of owners of agricultural and homestead property are protected against the inappropriate circumvention by the use of receiverships. The limitations and restrictions applicable to receiverships specifically provided for under current law are preserved.

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, is imposed to provide the receiver with an opportunity to address emergent situations, while giving anyone stayed the opportunity to seek relief from the stay for good cause. A comprehensive claims procedure and system of priorities in general liquidating receiverships is established.

Duplicative, inconsistent and archaic statutes are repealed.

Votes on Final Passage:

Senate 49 0
House 95 0 (House amended)
Senate 49 0 (Senate concurred)

Effective: June 10, 2004

Partial Veto Summary: The veto restores three statutory provisions that were inadvertently repealed.