

**57-26-107 Enforcement by appointment of receiver.**

- (1) An assignee is entitled to the appointment of a receiver for the real property subject to the assignment of rents if:
  - (a) the assignor is in default and:
    - (i) the assignor has agreed in a signed document to the appointment of a receiver in the event of the assignor's default;
    - (ii) it appears likely that the real property may not be sufficient to satisfy the secured obligation;
    - (iii) the assignor has failed to turn over to the assignee proceeds that the assignee was entitled to collect; or
    - (iv) a subordinate assignee of rents obtains the appointment of a receiver for the real property; or
  - (b) other circumstances exist that would justify the appointment of a receiver under law of this state other than this chapter.
- (2) An assignee may file a petition for the appointment of a receiver in connection with an action:
  - (a) to foreclose the security instrument;
  - (b) for specific performance of the assignment;
  - (c) seeking a remedy on account of waste or threatened waste of the real property subject to the assignment; or
  - (d) otherwise to enforce the secured obligation or the assignee's remedies arising from the assignment.
- (3) An assignee that files a petition under Subsection (2) shall also give a copy of the petition in the manner specified in Section 57-26-103 to any other person that, 10 days before the date the petition is filed, held a recorded assignment of rents arising from the real property.
- (4) If an assignee enforces an assignment of rents under this section, the date of enforcement is the date on which the court enters an order appointing a receiver for the real property subject to the assignment.
- (5) From the date of its appointment, a receiver is entitled to collect rents as provided in Subsection 57-26-106(2). The receiver also has the authority provided in the order of appointment and law of this state other than this chapter.
- (6) The following rules govern priority among receivers:
  - (a) If more than one assignee qualifies under this section for the appointment of a receiver, a receivership requested by an assignee entitled to priority in rents under this chapter has priority over a receivership requested by a subordinate assignee, even if a court has previously appointed a receiver for the subordinate assignee.
  - (b) If a subordinate assignee obtains the appointment of a receiver, the receiver may collect the rents and apply the proceeds in the manner specified in the order appointing the receiver until a receiver is appointed under a senior assignment of rents.

Enacted by Chapter 139, 2009 General Session