Modernizing Receivership in Illinois: The New Illinois Receivership Act

Description

Effective January 1, 2026, the Illinois Receivership Act (Public Act 104-0034) ushers in a new era for commercial receivership proceedings across the state. Designed to provide greater clarity, consistency, and efficiency, the Act offers expanded tools for creditors, courts, and distressed businesses to protect and manage assets during times of financial uncertainty.
The legislation, passed unanimously by both chambers of the Illinois General Assembly, was signed into law by Governor J.B. Pritzker on August 1, 2025. Its enactment represents a long-overdue modernization of Illinois receivership law.

Newpoint's Matthew Brash was instrumental in the passage of the Act through educating banks, attorneys and third parties on the benefits of the Act.

Why Illinois Needed Reform

Prior to the Act, Illinois receivership law was scattered, underdeveloped, and inconsistent:

- The principal statute governing receiverships contained only four sentences.
- Case law was outdated—much of it predating the federal Bankruptcy Code.
- Procedures varied widely between counties and judges, leading to unpredictability.
- There was no clear statutory guidance on the appointment, powers, or duties of receivers.

To address these issues, a subcommittee of the Chicago Bar Association (CBA) assembled in 2023 to draft a modern, comprehensive receivership framework. The resulting legislation—introduced by Representative Dan Didech as House Bill 28—received strong bipartisan support.

Newpoint Advisors and Industry Involvement

As part of the legislative process, Newpoint Advisors Corporation (NAC), under the leadership of Matthew Brash, played a pivotal role in advocating for the bill. NAC partnered with the Commercial Receivers Association to organize an educational panel in early 2025, spotlighting the Act's benefits for the legal, banking, and restructuring communities.

Scope and Applicability

The Act applies to most commercial receiverships initiated on or after January 1, 2026, involving:

- Real property and personal property
- Corporations, LLCs, partnerships, and trusts

Notable Exclusions:

- Residential real estate with 1–6 dwelling units, unless used for commercial or development purposes or rented to non-affiliates
- Receiverships under other laws, including the Illinois Mortgage Foreclosure Law
- Governmental receiverships, unless the public entity voluntarily opts into the Act

Court Appointments and Proceedings

Circuit courts may appoint receivers either pre-judgment or post-judgment, particularly in cases involving:

- Enforcement of liens
- Corporate disputes (e.g., deadlock, insolvency, or dissolution)
- At-risk or mismanaged real estate and business assets

Courts must generally provide notice and a hearing before entering a receivership order, although emergency situations may justify expedited action. The Act also authorizes Illinois courts to:

- Recognize foreign receivership orders
- Appoint ancillary receivers for assets located in Illinois

Upon appointment, a limited automatic stay goes into effect to protect receivership property.

Receiver Qualifications and Authority

Any qualified individual may serve as a receiver, but the Act disqualifies:

- Affiliates of involved parties or judges
- Individuals with adverse interests
- Persons with conflicting financial relationships

While a party may nominate a receiver, the court has final discretion.

Receivers are empowered—subject to court oversight—to:

- Secure and manage property
- Operate businesses and incur ordinary-course debt
- Initiate or defend legal claims
- Hire professionals (e.g., attorneys, accountants)

- Sell, lease, or transfer assets (with court approval if outside the ordinary course)
- Assume or reject contracts and leases
- Make distributions to creditors

Receivers must maintain proper records, report to the court, and disclose any potential conflicts. The court may adjust the scope of authority as needed.

Key Protections for Secured Creditors

To ensure fairness, the Act includes several creditor protections:

- Pre-existing liens remain intact, including those on after-acquired property
- Possession and control of collateral may be retained by secured creditors to preserve priority
- Creditors may perfect or maintain liens during the stay
- Asset sales free and clear of liens require senior lienholder consent or are subject to their interest
- Junior creditors cannot force a sale over senior objections
- Secured creditors may credit bid at any sale
- Subordination agreements remain enforceable
- Proceeds of a sale are distributed in accordance with Illinois lien priority law
- Receivership requests do not convert creditors into mortgagees in possession or waive rights

Creditor Claims and Notification Process

Once appointed, the receiver must notify all known creditors. Each creditor has at least 60 days to submit a proof of claim, which must include:

- Name and contact information
- Amount and legal basis of the claim
- Description of any collateral
- Supporting documentation
- A signed declaration under penalty of perjury

Obligations of Owners (Defendants)

Owners of receivership property are legally required to:

- Cooperate with the receiver
- Turn over property and access
- Provide documentation and financial records
- Submit to sworn examination if requested

Failure to comply may result in contempt proceedings, damages, or other court-imposed remedies.

Fees and Expenses

Receivers and their professionals are entitled to reasonable compensation, paid from the receivership estate. If estate assets are insufficient, the court may allocate payment to:

- Parties who requested the receivership
- Parties whose actions justified or would have justified the appointment (e.g., mismanagement or waste)

Conclusion

The Illinois Receivership Act represents a landmark development in state insolvency law. By creating a transparent and consistent process for the appointment and oversight of receivers, the Act offers businesses, lenders, and courts a more effective alternative to traditional bankruptcy proceedings.

For stakeholders dealing with distressed assets, the Act provides a vital tool to protect value, stabilize operations, and preserve creditor rights—bringing Illinois in line with best practices nationwide.

To learn more or seek a consultation regarding Federal and State Receiverships, please contact Matthew Brash (mbrash@newpointadvisors.us).

Newpoint Advisors Corporation is a North American financial advisory firm dedicated to improving troubled and financially underperforming businesses with revenues of $5-50MM for a fixed fee and on a fixed timeline. Since 2013, Newpoint has recovered $1,620,000,000 in debt and saved 14,731 jobs.

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Date Created
2025/08/22