

***** Act 115 of 2022 THIS NEW ACT IS EFFECTIVE SEPTEMBER 22, 2022 *****
MICHIGAN UNIFORM ASSIGNMENT OF RENTS ACT
Act 115 of 2022

AN ACT to enact the uniform assignment of rents act; to provide for the creation, perfection, and enforcement of security interests in rents; to provide remedies; and to repeal acts and parts of acts.

History: 2022, Act 115, Eff. Sept. 22, 2022.

The People of the State of Michigan enact:

***** 554.1051.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1051.new Short title.

Sec. 1. This act may be cited as the "Michigan uniform assignment of rents act".

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1052.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1052.new Definitions.

Sec. 2. As used in this act:

(a) "Assignee" means a person entitled to enforce an assignment of rents. Assignee includes the purchaser at a foreclosure sale by operation of law.

(b) "Assignment of rents" means a transfer of an interest in rents in connection with an obligation secured by real property located in this state and from which the rents arise.

(c) "Assignor" means a person that makes an assignment of rents or the successor owner of the real property from which the rents arise.

(d) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(e) "Day" means calendar day.

(f) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank, savings bank, savings and loan association, credit union, or trust company.

(g) "Document" means information that is inscribed on a tangible medium or that is stored on an electronic or other medium and is retrievable in perceivable form.

(h) "Notification" means a document containing information that this act requires a person to provide to another, signed by the person required to provide the information.

(i) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(j) "Proceeds" means personal property that is received or collected on account of a tenant's obligation to pay rents.

(k) "Purchase" means to take by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(l) "Rental agreement" means an agreement by which a person is obligated to pay rents to the assignor.

(m) "Rents" means any of the following:

(i) Sums payable for the right to possess or occupy, or for the actual possession or occupation of, real property of another person.

(ii) Sums payable to an assignor under a policy of rental interruption insurance covering real property.

(iii) Claims arising out of a default in the payment of sums payable for the right to possess or occupy real property of another person.

(iv) Sums payable to terminate an agreement to possess or occupy real property of another person.

(v) Sums payable to an assignor for payment or reimbursement of expenses incurred in owning, operating, and maintaining, or constructing or installing improvements on, real property.

(vi) Fees, charges, accounts, or other payments for the use or occupancy of rooms and other facilities in hotels, motels, or other lodging properties.

(vii) Any other sums payable under an agreement relating to the real property of another person that constitute rents under law of this state other than this act.

(n) "Secured obligation" means an obligation the performance of which is secured by an assignment of rents.

(o) "Security instrument" means a document, however denominated, that creates or provides for a security interest in real property, including a land contract, whether or not it also creates or provides for a security interest in personal property.

(p) "Security interest" means an interest in property that arises by agreement and secures performance of an obligation.

(q) "Sign" means, with present intent to authenticate or adopt a document, to do either of the following:

(i) Execute or adopt a tangible symbol.

(ii) Attach to or logically associate with the document an electronic sound, symbol, or process.

(r) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(s) "Submit for recording" means to submit a document complying with applicable legal standards, with required fees and taxes, to the register of deeds for the county in which the real property is located.

(t) "Tenant" means a person that has an obligation to pay sums for the right to possess or occupy, or for possessing or occupying, the real property of another person.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1053.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1053.new Assignment; notification; method; proper address rules.

Sec. 3. (1) Except as otherwise provided in subsections (3) and (4), a person gives a notification or a copy of a notification under this act by doing either of the following:

(a) Depositing it with the United States Postal Service or with a commercially reasonable delivery service, properly addressed to the intended recipient's address as specified in subsection (2), with first-class postage or cost of delivery provided for.

(b) If the recipient agreed to receive notification by facsimile transmission, email, or other electronic transmission, sending it to the recipient in the agreed manner at the address specified in the agreement.

(2) The following rules determine the proper address for giving a notification under subsection (1):

(a) A person giving a notification to an assignee shall use the address for notices to the assignee provided in the document creating the assignment of rents, but, if the assignee has provided the person giving the notification with a more recent address for notices, the person giving the notification shall use that address.

(b) A person giving a notification to an assignor shall use the address for notices to the assignor provided in the document creating the assignment of rents, but, if the assignor has provided the person giving the notification with a more recent address for notices, the person giving the notification shall use that address.

(c) If a tenant's agreement with an assignor provides an address for notices to the tenant and the person giving notification has received a copy of the agreement or knows the address for notices specified in the agreement, the person giving the notification shall use that address in giving a notification to the tenant. Otherwise, the person shall use the address of the premises covered by the agreement.

(3) If a person giving a notification pursuant to this act and the recipient have agreed to the method for giving a notification, any notification must be given by that method.

(4) If a notification is received by the recipient, it is effective even if it was not given in accordance with subsection (1) or (3).

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1054.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1054.new Assignment of rents; enforceable security interest; discharge; foreclosure; applicability.

Sec. 4. (1) An assignment of rents is created by an assignment in either an enforceable security instrument that grants a security interest in rents or a document that grants a security interest in rents which is signed in connection with an enforceable security instrument as to any real property described in the document creating the assignment of rents.

(2) Except as provided in subsection (5), an assignment of rents creates a presently effective security interest in all accrued and unaccrued rents arising from the real property described in the document creating the assignment, regardless of whether the document is in the form of an absolute assignment, an absolute assignment conditioned upon default, an assignment as additional security, or any other form. The security interest in rents is separate and distinct from any security interest held by the assignee in the real property.

(3) A discharge of a security instrument discharges by operation of law any assignment of rents made in connection with the discharged security instrument.

(4) Upon a foreclosure of the security instrument, all of the following apply:

(a) The assignment of rents made in connection with the security instrument continues to be effective to the extent of the remaining secured obligation and transfers to the purchaser at the foreclosure sale by operation of law whether or not the foreclosure notice makes reference to the assignment of rents. Any transfer of the foreclosure deed by the holder of the deed also transfers the assignment of rents to the transferee by operation of law.

(b) The assignment of rents made in connection with the security instrument automatically terminates upon the earlier of the following:

(i) Redemption from the foreclosure sale.

(ii) Expiration of the redemption period without redemption. For purposes of this subparagraph, the assignment of rents in connection with any subordinate security instrument automatically terminates.

(5) This act does not apply to an assignment of rents regarding an interest in real property improved by 1 to 4 dwelling units unless 1 or more of the following apply:

(a) The interest is used for agricultural, commercial, industrial, or mineral-extraction purposes, other than incidental uses by an assignor occupying the property as the assignor's primary residence.

(b) The interest secures an obligation incurred at a time when the property was used or planned for use for agricultural, commercial, industrial, or mineral-extraction purposes.

(c) The assignor planned or is planning to develop the property into 1 or more dwelling units to be sold or leased in the ordinary course of the owner's business.

(d) The assignor is collecting or has the right to collect rents or other income from the property from a person other than an affiliate of the assignor.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1055.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1055.new Recording with register of deeds; perfected security interest; priority.

Sec. 5. (1) A document creating an assignment of rents may be submitted for recording to the register of deeds in the same manner as any other document evidencing a conveyance of an interest in real property.

(2) Upon recording, the security interest in rents created by an assignment of rents is fully perfected, even if a provision of the document creating the assignment or law of this state other than this act would preclude or defer enforcement of the security interest until the occurrence of a subsequent event, including a subsequent default of the assignor, the assignee's obtaining possession of the real property, or the appointment of a receiver.

(3) Except as otherwise provided in subsection (4), a perfected security interest in rents takes priority over the rights of a person that, after the security interest is perfected, does either of the following:

(a) Acquires a judicial lien against the rents or the real property from which the rents arise. If the judicial lien arises out of a construction lien, the priority of the security interests in the rents must be determined under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.

(b) Purchases an interest in the rents or the real property from which the rents arise.

(4) A perfected security interest in rents has priority over the rights of a person described in subsection (3) with respect to future advances to the same extent as the assignee's security interest in the real property has priority over the rights of that person with respect to future advances.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1056.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1056.new Assignment enforcement methods.

Sec. 6. (1) An assignee may enforce an assignment of rents using 1 or more of the methods specified in sections 7, 8, and 9 or any other method sufficient to enforce the assignment under law of this state other than this act.

(2) From the first date of enforcement, the assignee or, in the case of enforcement by appointment of a receiver under section 7, the receiver, is entitled to collect all of the following:

(a) Rents that have accrued but remain unpaid on that date.

(b) Rents that accrue on or after that date, as those rents accrue.

(3) From the first date of enforcement, a modification of the rental agreement is not binding on the assignee without the written consent of the assignee.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1057.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1057.new Appointment of receiver; petition; priority of receivers.

Sec. 7. (1) An assignee is entitled to the appointment of a receiver for the real property subject to the assignment of rents if either of the following applies:

(a) The assignor is in default and any of the following apply:

(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 and any other collateral granted by the assignor to the assignee 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 under this act.

(iv) A subordinate assignee of rents obtains the appointment of a receiver for the real property.

(b) Other circumstances exist that would justify the appointment of a receiver under law of this state other than this act.

(2) An assignee may file a petition for the appointment of a receiver if any of the following apply:

(a) The petition is filed in connection with an action to foreclose the security instrument.

(b) The petition is filed in connection with an action for specific performance of the assignment.

(c) The petition is filed in connection with an action seeking a remedy on account of waste or threatened waste of the real property subject to the assignment.

(d) The petition is filed in connection with an action to otherwise enforce the secured obligation or the assignee's remedies arising from the assignment.

(e) Other circumstances exist that would justify the appointment of a receiver under law of this state other than this act.

(3) An assignee that files a petition for the appointment of a receiver shall also give a copy of the petition in the manner specified in section 3 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 by seeking the appointment of a receiver, the date of enforcement is the date on which the assignee files a petition to appoint a receiver as to the assignment of rents if 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 section 6(2). The receiver also has the authority provided in the order of appointment and law of this state other than this act.

(6) The following rules govern priority among receivers:

(a) If more than 1 assignee qualify under this section for the appointment of a receiver, a receivership requested by an assignee entitled to priority in rents under this act 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.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1058.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1058.new Demand notice to assignor for collection of rents; notification requirements.

Sec. 8. (1) Upon the assignor's default, or as otherwise agreed by the assignor, the assignee may give the assignor a notice demanding that the assignor pay over the proceeds of any rents that the assignee is entitled to collect under section 6. The assignee shall record the notice in the office of the register of deeds in the same manner as the security instrument is recorded. The filing of a petition for appointment of a receiver, if it is served in the manner provided in section 3 within 10 days after it is filed, constitutes a recorded notification demanding that the assignor pay over the proceeds of any rents that the assignee is entitled to collect under section 6. The assignee shall also give a copy of the recorded or filed notification to any other person that, 10 days before the notification date, held a recorded assignment of rents arising from the real property.

(2) If an assignee enforces an assignment of rents under this section, the date of enforcement is the date on which the assignor receives a notification under subsection (1). If the notification was served in the manner provided in section 3 within 10 days after it was recorded, the date of enforcement is the date of recording.

(3) An assignee's failure to give a notification under subsection (1) to any person holding a recorded assignment of rents does not affect the effectiveness of the notification as to the assignor, but the other person is entitled to any relief permitted under law of this state other than this act.

History: 2022, Act 115, Eff. Sept. 22, 2022.

554.1059.new Demand notice to tenant for payment of rents; notification requirements.

Sec. 9. (1) Upon the assignor's default, or as otherwise agreed by the assignor, the assignee may give to a tenant of the real property a notification demanding that the tenant pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue. The assignee shall give a copy of the notification to the assignor and to any other person that, 10 days before the notification date, held a recorded assignment of rents arising from the real property. The notification must be signed by the assignee and do all of the following:

(a) Identify the tenant, assignor, assignee, premises covered by the agreement between the tenant and the assignor, and assignment of rents being enforced.

(b) Provide the recording data for the document creating the assignment or other reasonable proof that the assignment was made.

(c) State that the assignee has the right to collect rents in accordance with the assignment.

(d) Direct the tenant to pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue.

(e) Describe the manner in which subsections (3) and (4) affect the tenant's payment obligations.

(f) Provide the name and telephone number of a contact person and an address to which the tenant can direct payment of rents and any inquiry for additional information about the assignment or the assignee's right to enforce the assignment.

(g) Contain a statement that the tenant may consult a lawyer if the tenant has questions about its rights and obligations.

(h) Have attached a copy of the recorded or filed notification to the assignor as provided in section 8.

(2) If an assignee enforces an assignment of rents under this section, the date of enforcement as to the tenant is the date on which the tenant receives a notification substantially complying with subsection (1).

(3) Subject to subsection (4) and any other claim or defense that a tenant has under an agreement enforceable against the assignee or under the law of the United States or this state other than this act, following receipt of a notification substantially complying with subsection (1), all of the following apply:

(a) A tenant is obligated to pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue, unless the tenant has previously received a notification from another assignee of rents given by that assignee in accordance with this section and the other assignee has not canceled that notification.

(b) Unless a tenant occupies the premises as the tenant's primary residence, a tenant that pays rents to the assignor is not discharged from the obligation to pay rents to the assignee.

(c) A tenant's payment to the assignee of rents then due satisfies the tenant's obligation under the tenant's rental agreement to the extent of the payment made.

(d) A tenant's obligation to pay rents to the assignee continues until the tenant receives a court order directing the tenant to pay the rent in a different manner or a signed document from the assignee canceling its notification, whichever occurs first.

(e) A modification of the rental agreement is not binding on the assignee without the assignee's written consent.

(4) A tenant that has received a notification under subsection (1) is not in default under its rental agreement for nonpayment of rents accruing within 30 days after the date the notification is received before the earlier of the following:

(a) Ten days after the date the next regularly scheduled rental payment would be due.

(b) Thirty days after the date the tenant receives the notification.

(5) Upon receiving a notification from another creditor that is entitled to priority under section 5(3) that the other creditor has enforced and is continuing to enforce its interest in rents, an assignee that has given a notification to a tenant under subsection (1) shall immediately give another notification to the tenant canceling the earlier notification.

(6) An assignee's failure to give a notification under subsection (1) to any person holding a recorded assignment of rents does not affect the effectiveness of the notification as to the assignor and those tenants receiving the notification. However, the person entitled to the notification is entitled to any relief permitted by law of this state other than this act.

History: 2022, Act 115, Eff. Sept. 22, 2022.

554.1060.new Notification to pay rents to person other than landlord; form.

Sec. 10. No particular phrasing is required for the notification specified in section 9. However, the following form of notification, when properly completed, is sufficient to satisfy the requirements of section 9:

NOTIFICATION TO PAY RENTS TO PERSON OTHER THAN LANDLORD

Your landlord, _____, owes a debt to _____ (the assignee). In the landlord's and assignee's agreement about the debt owed by your landlord, there is a provision about "assignment of rents" that provides that if the landlord defaults in the landlord's obligations under the landlord's and assignee's agreement, the assignee has a right to collect rent directly from the landlord's tenants.

Pursuant to this notice, the assignee is enforcing the assignee's rights to collect rent directly from the landlord's tenants. You are now required to pay rent directly to the assignee, as instructed by this notice. This is because you now have a legal duty to pay your rent directly to the assignee rather than to your landlord. If you pay your rent directly to the assignee after receipt of this notice, your landlord cannot legally claim that you owe rent during the period you paid your rent directly to the assignee. You must continue paying rent directly to the assignee until you receive an order from the court telling you to stop paying your rent directly to the assignee or instructing you on whom to pay rent to, or the assignee sends you a written notice that you should stop paying rent directly to the assignee.

Tenant: _____

Name of Tenant

Property Occupied by Tenant (the "Premises"): _____

Address

Landlord: _____

Name of Landlord

Assignee: _____

Name of Assignee

Address of Assignee and Telephone Number of Contact Person:

Address of Assignee

Telephone Number of Person to Contact

1. The Assignee named above has become the person entitled to collect your rents on the Premises listed above under

Name of Document

(the "Assignment of Rents") dated _____, and recorded in

Date

the records of the _____ County Register of Deeds at

County

Recording Data

You may obtain additional information about the Assignment of Rents and the Assignee's right to enforce it at the address listed above.

2. The Landlord is in default under the Assignment of Rents. Under the Assignment of Rents, the Assignee is entitled to collect rents from the Premises.

3. This notification affects your rights and obligations under the rental agreement under which you occupy the Premises (your "Rental Agreement"). In order to provide you with an opportunity to consult with a lawyer, if your next scheduled rental payment is due within 30 days after you receive this notification, neither the Assignee nor the Landlord can hold you in default under your Rental Agreement for nonpayment of that rental payment until 10 days after the due date of that payment or 30 days following the date you receive this notification, whichever occurs first. You may consult a lawyer at your expense concerning your rights and obligations under your Rental Agreement and the effect of this notification.

4. You must pay to the Assignee at the address listed above all rents under your Rental Agreement which are due and payable on the date you receive this notification and all rents accruing under your Rental Agreement after you receive this notification. If you pay rents to the Assignee after receiving this notification, the payment will satisfy your rental obligation to the extent of that payment.

5. Unless you occupy the premises as your primary residence, if you pay any rents to the Landlord after receiving this notification, your payment to the Landlord will not discharge your rental obligation, and the Assignee may hold you liable for that rental obligation notwithstanding your payment to the Landlord.

6. Any modification of the Rental Agreement is not binding on the Assignee without the Assignee's written consent.

7. If you have previously received a notification from another person that also holds an assignment of the rents due under your Rental Agreement, you should continue paying your rents to the person that sent that notification until that person cancels that notification. Once that notification is canceled, you must begin paying rents to the Assignee in accordance with this notification.

8. Your obligation to pay rents to the Assignee will continue until you receive either:

- (a) a written order from a court directing you to pay the rent in a manner specified in that order; or
- (b) written instructions from the Assignee canceling this notification.

Name of Assignee

By: _____

Signature of Officer/Authorized Representative of Assignee

Name and Title of Officer/Authorized Representative

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1061.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1061.new Effect of enforcement of assignments of rent.

Sec. 11. The enforcement of an assignment of rents by 1 or more of the methods identified in sections 7, 8, and 9, the application of proceeds by the assignee under section 12 after enforcement, the payment of expenses under section 13, or an action under section 14(4) does not do any of the following:

- (a) Make the assignee a mortgagee in possession of the real property.
- (b) Make the assignee an agent of the assignor.
- (c) Constitute an election of remedies that precludes a later action to enforce the secured obligation or the security instrument.
- (d) Make the secured obligation or the security instrument unenforceable.
- (e) Limit any right available to the assignee with respect to the secured obligation.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1062.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1062.new Collection of rent proceeds; use of funds.

Sec. 12. Unless otherwise agreed, an assignee that collects rents under this act or collects upon a judgment in an action under section 14(4) shall apply the sums collected in the following order:

- (a) To the assignee's reasonable expenses of enforcing its assignment of rents, including, to the extent provided for by agreement and not prohibited by law of this state other than this act, reasonable attorney fees and costs incurred by the assignee.
- (b) To reimbursement of any expenses incurred by the assignee to protect or maintain the real property subject to the assignment.
- (c) To payment of the secured obligation.
- (d) To payment of any obligation secured by a subordinate security interest or other lien on the rents if, before distribution of the proceeds, the assignor and assignee receive a notification from the holder of the interest or lien demanding payment of the proceeds.
- (e) To the assignor.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1063.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1063.new Exception for use of collection of rents; protection of rights.

Sec. 13. (1) Unless otherwise agreed by the assignee, and subject to subsection (3), an assignee that collects rents following enforcement under section 8 or 9 need not apply them to the payment of expenses of protecting or maintaining the real property subject to the assignment.

(2) Unless a tenant has made an enforceable agreement not to assert claims or defenses, the right of the assignee to collect rents from the tenant is subject to the terms of the agreement between the assignor and tenant and any claim or defense arising from the assignor's nonperformance of that agreement.

(3) This act does not limit the standing or right of a tenant, assignor, or other affected person to request a court to appoint a receiver for the real property subject to the assignment or to seek other relief on the ground that the assignee's nonpayment of expenses of protecting or maintaining the real property has caused or threatened harm to the tenant's, assignor's, or other affected person's interest in the property.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1064.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1064.new "Good faith" defined; collection by assignor; remedies; priority.

Sec. 14. (1) In this section, "good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(2) If an assignor collects rents that the assignee is entitled to collect under this act, both of the following apply:

(a) The assignor shall turn over the proceeds to the assignee, less any amount representing payment of expenses authorized by the assignee.

(b) The assignee continues to have a security interest in the proceeds so long as they are identifiable.

(3) For purposes of this act, cash proceeds are identifiable if they are maintained in a segregated account or, if commingled with other funds, to the extent the assignee can identify them by a method of tracing, including application of equitable principles, that is permitted under law of this state other than this act with respect to commingled funds.

(4) In addition to any other remedy available to the assignee under law of this state other than this act, if an assignor fails to turn over proceeds to the assignee as required by subsection (2), the assignee may recover from the assignor or a person liable under the uniform voidable transactions act, 1998 PA 434, MCL 566.31 to 566.45, or both, in a civil action, both of the following:

(a) The proceeds, or an amount equal to the proceeds, that the assignor was obligated to turn over under subsection (2).

(b) Reasonable attorney fees and costs incurred by the assignee to the extent provided for by agreement and not prohibited by law of this state other than this act.

(5) The assignee may maintain an action under subsection (4) without bringing an action to foreclose any security interest that it may have in the real property, and an action under subsection (4) does not bar a foreclosure by advertisement under chapter 32 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3201 to 600.3285. Any sums recovered in the action must be applied in the manner specified in section 12.

(6) Unless otherwise agreed, if an assignee entitled to priority under section 5(3) enforces its interest in rents after another creditor holding a subordinate security interest in rents has enforced its interest under section 8 or 9, the creditor holding the subordinate security interest in rents is not obligated to turn over any proceeds that it collects in good faith before the creditor receives notification that the senior assignee has enforced its interest in rents. The creditor shall turn over to the senior assignee any proceeds that it collects after it receives the notification.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1065.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1065.new Perfection of security interests; priority rules in article 9.

Sec. 15. (1) As used in this section:

(a) "Article 9" means article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9101 to 440.9809, or, to the extent applicable to any particular issue, article 9 of the uniform commercial code as adopted by the state whose laws govern that issue under the choice-of-laws rules contained in article 9 as adopted by this state.

(b) "Conflicting interest" means an interest in proceeds, held by a person other than an assignee, that is either of the following:

(i) A security interest arising under article 9.

(ii) Any other interest if article 9 resolves the priority conflict between that person and a secured party with a conflicting security interest in the proceeds.

(2) An assignee's security interest in identifiable cash proceeds is perfected if its security interest in rents is perfected. An assignee's security interest in identifiable noncash proceeds is perfected only if the assignee perfects that interest in accordance with article 9.

(3) Except as otherwise provided in subsection (4), priority between an assignee's security interest in identifiable proceeds and a conflicting interest is governed by the priority rules in article 9.

(4) An assignee's perfected security interest in identifiable cash proceeds is subordinate to a conflicting interest that is perfected by control under article 9 but has priority over a conflicting interest that is perfected other than by control.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1066.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1066.new Priority subject to subordination.

Sec. 16. This act does not preclude subordination by agreement as to rents or proceeds.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1067.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1067.new Promotion of uniformity.

Sec. 17. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1068.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1068.new Electronic signatures.

Sec. 18. This act modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede 15 USC 7001(c), or authorize electronic delivery of any of the notices described in 15 USC 7003(b).

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1069.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1069.new Applicability of act.

Sec. 19. (1) Except as otherwise provided in this section, this act governs the enforcement of an assignment of rents and the perfection and priority of a security interest in rents, even if the document creating the assignment was signed and delivered before the effective date of this act.

(2) This act does not affect an action or proceeding commenced before the effective date of this act.

(3) This act does not affect any of the following:

(a) The enforceability of an assignee's security interest in rents or proceeds if, immediately before the effective date of this act, that security interest was enforceable.

(b) The perfection of an assignee's security interest in rents or proceeds if, immediately before the effective date of this act, that security interest was perfected.

(c) The priority of an assignee's security interest in rents or proceeds with respect to the interest of another person if, immediately before the effective date of this act, the interest of the other person was enforceable and perfected, and that priority was established.

History: 2022, Act 115, Eff. Sept. 22, 2022.

***** 554.1070.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 22, 2022 *****

554.1070.new Repeal of certain acts.

Sec. 20. The following acts are repealed:

(a) 1925 PA 228, MCL 554.211 to 554.214.

(b) 1953 PA 210, MCL 554.231 to 554.233.

History: 2022, Act 115, Eff. Sept. 22, 2022.