

## **IC 32-30-5**

### **Chapter 5. Receiverships**

#### **IC 32-30-5-1**

##### **Appointment of receivers; cases**

Sec. 1. A receiver may be appointed by the court in the following cases:

(1) In an action by a vendor to vacate a fraudulent purchase of property or by a creditor to subject any property or fund to the creditor's claim.

(2) In actions between partners or persons jointly interested in any property or fund.

(3) In all actions when it is shown that the property, fund or rent, and profits in controversy are in danger of being lost, removed, or materially injured.

(4) In actions in which a mortgagee seeks to foreclose a mortgage. However, upon motion by the mortgagee, the court shall appoint a receiver if, at the time the motion is filed, the property is not occupied by the owner as the owner's principal residence and:

(A) it appears that the property is in danger of being lost, removed, or materially injured;

(B) it appears that the property may not be sufficient to discharge the mortgaged debt;

(C) either the mortgagor or the owner of the property has agreed in the mortgage or in some other writing to the appointment of a receiver;

(D) a person not personally liable for the debt secured by the mortgage has, or is entitled to, possession of all or a portion of the property;

(E) the owner of the property is not personally liable for the debt secured by the mortgage; or

(F) all or any portion of the property is being, or is intended to be, leased for any purpose.

(5) When a corporation:

(A) has been dissolved;

(B) is insolvent;

(C) is in imminent danger of insolvency; or

(D) has forfeited its corporate rights.

(6) To protect or preserve, during the time allowed for redemption, any real estate or interest in real estate sold on execution or order of sale, and to secure rents and profits to the person entitled to the rents and profits.

(7) In other cases as may be provided by law or where, in the discretion of the court, it may be necessary to secure ample justice to the parties.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-2**

#### **Persons prohibited from being appointed in particular action**

Sec. 2. A court may not appoint:

- (1) a party;
- (2) an attorney representing a party; or
- (3) another person interested in an action;

as a receiver in that action.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-3**

#### **Receivers; oath; surety**

Sec. 3. Before beginning duties as a receiver, the receiver must:

- (1) swear to perform the duties of a receiver faithfully; and
- (2) with one (1) or more sureties approved by the court or judge, execute a written undertaking, payable to such person as the court or the judge directs, to the effect that the receiver will:
  - (A) faithfully discharge the duties of receiver in the action;
  - and
  - (B) obey the orders of the court or judge.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-4**

#### **Money or things controlled by party; delivery**

Sec. 4. If it is admitted by the pleading or examination of a party that the party has in the party's possession or under the party's control any money or other thing capable of delivery, which:

- (1) is the subject of the litigation;
- (2) is held by the party as trustee for another party; or
- (3) belongs or is due to another party;

the court or the judge may order the money or thing to be deposited in court or with the clerk, or delivered to the other party, with or without security, subject to the further order of the court or the judge.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-5**

#### **Disobeyed order; delivery of money or thing; deposit**

Sec. 5. If:

- (1) in the exercise of its authority, a court or judge has ordered the deposit or delivery of money or another thing; and
- (2) the order is disobeyed;

the court or the judge, besides punishing the disobedience as contempt, may make an order requiring the sheriff to take the money or thing and deposit it or deliver it in conformity with the direction of the court or judge.

*As added by P.L.2-2002, SEC.15. Amended by P.L.1-2003, SEC.85.*

### **IC 32-30-5-6**

#### **Loan of deposited money prohibited; permitted with consent of parties**

Sec. 6. Money deposited or paid into court or with the clerk in an action may not be loaned out unless consent is obtained from all parties having an interest in or making claim to the money.  
*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-5-7**

##### **Receiver's powers**

Sec. 7. The receiver may, under control of the court or the judge:

- (1) bring and defend actions;
- (2) take and keep possession of the property;
- (3) receive rents;
- (4) collect debts; and
- (5) sell property;

in the receiver's own name, and generally do other acts respecting the property as the court or judge may authorize.

*As added by P.L.2-2002, SEC.15. Amended by P.L.177-2003, SEC.1.*

#### **IC 32-30-5-8**

##### **Defendant's admission; partial satisfaction of claim**

Sec. 8. If the answer of the defendant admits part of the plaintiff's claim to be just, the court, on motion, may order the defendant to satisfy that part of the claim and may enforce the order by execution.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-5-9**

##### **Time of receiver's appointment**

Sec. 9. Receivers may not be appointed in any case until the adverse party has appeared or has had reasonable notice of the application for the appointment, except upon sufficient cause shown by affidavit.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-5-10**

##### **Appeal; suspension of receiver's authority; surety**

Sec. 10. (a) In all cases commenced or pending in any Indiana court in which a receiver may be appointed or refused, the party aggrieved may, within ten (10) days after the court's decision, appeal the court's decision to the supreme court without awaiting the final determination of the case.

(b) In cases where a receiver will be or has been appointed, upon the appellant filing of an appeal bond:

- (1) with sufficient surety;
- (2) in the same amount as was required of the receiver; and
- (3) conditioned for the due prosecution of the appeal and the payment of all costs or damages that may accrue to any officer or person because of the appeal;

the authority of the receiver shall be suspended until the final determination of the appeal.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-11**

#### **Actions by a receiver; pleadings**

Sec. 11. In any suit or action by a receiver appointed by any court of record in Indiana, it is only necessary for the receiver, in the receiver's complaint or pleading, to state:

- (1) the court;
- (2) the cause of action in which the receiver was appointed; and
- (3) the date on which the receiver was appointed.

Proof of the appointment is not required on the trial of the cause unless the appointment is specially denied, in addition to the general denial filed in the cause.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-12**

#### **Clerk's record book**

Sec. 12. The clerk of the court of each county shall keep a record book suitable to enter and record statements of assets and liabilities.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-13**

#### **Claims filed with receiver**

Sec. 13. All claims against the assets in the hands of the receiver that are filed with the receiver shall be filed by the receiver with the clerk of the court in which the receivership is pending. The clerk shall record the claims with the statements under this chapter, resulting in a complete record of the assets and liabilities of the receivership.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-14**

#### **Receiver's report**

Sec. 14. In all receiverships pending or begun in any court, the receiver, within the time as may be fixed by an order of the court in which the receivership is pending, shall file with the court an account or report in partial or final settlement of the liquidation or receivership proceedings.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-15**

#### **Receiver's report; requirements**

Sec. 15. The account or report required by section 14 of this chapter must set forth all:

- (1) receipts and disbursements to the date of the accounting; and
- (2) other appropriate information relative to the:
  - (A) administration of the receivership;
  - (B) liquidation of the receivership; and
  - (C) declaration and payment of dividends.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-16**

#### **Receiver's report; filing deadline; petition for court order**

Sec. 16. If an account is not filed within one (1) year after the date when the receiver took possession of the assets and effects of the receivership, any party interested may petition the court for an order requiring the filing of an account.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-17**

#### **Receiver's report; hearing; notice**

Sec. 17. (a) Except as provided in subsection (d), upon the filing of an account or report, the clerk of the court in which the receivership is pending shall give notice of the date on which the account or report is to be heard and determined by the court.

(b) The clerk shall give the notice required by subsection (a) by publication, once each week for three (3) successive weeks in two (2) newspapers of general circulation published or circulated within the county.

(c) The date in the notice on which the account or report is to be heard and determined by the court shall be fixed not less than thirty (30) days after the date of the filing of the account or report.

(d) Publication is not required under this section if the receivership is ancillary to a mortgage foreclosure.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-18**

#### **Objections to receiver's report**

Sec. 18. (a) During the thirty (30) day period referred to in section 17 of this chapter, any creditor, shareholder, or other interested party may file objections or exceptions in writing to the account or report.

(b) Any objections or exceptions to the matters and things contained in an account or report and to the receiver's acts reported in the report or account that are not filed within the thirty (30) day period referred to in section 17 of this chapter are forever barred for all purposes.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-19**

#### **Objections to receiver's report; hearing**

Sec. 19. At the expiration of the thirty (30) day period referred to in section 17 of this chapter, the court shall, without delay:

- (1) proceed with the hearing and determination of the objections or exceptions;
- (2) pass upon the account or report;
- (3) order the payment of a partial or final dividend; and
- (4) make other appropriate orders.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-5-20**

**Court approval of partial report; release of surety**

Sec. 20. The court's approval of a receiver's partial account or report, as provided in section 14 of this chapter, releases and discharges the receiver and the surety on the receiver's bond for all matters and things related to or contained in the partial account or report.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-5-21**

**Court approval of final report; discharge of surety; settlement of receivership**

Sec. 21. Upon the:

- (1) court's approval of the receiver's final account or report, as provided in section 14 of this chapter; and
- (2) receiver's performance and compliance with the court's order made on the final report;

the receiver and the surety on the receiver's bond shall be fully and finally discharged and the court shall declare the receivership estate finally settled and closed subject to the right of appeal of the receiver or any creditor, shareholder, or other interested party who has filed objections or exceptions as provided in section 18 of this chapter.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-5-22**

**Receivership estate; change of judge or venue**

Sec. 22. (a) This section applies to any action, proceeding, or matter relating to or involving a receivership estate.

(b) Except as provided in subsections (c) and (d), a party to a proceeding described in subsection (a) is entitled to a change of judge or a change of venue from the county for the same reasons and upon the same terms and conditions under which a change of judge or a change of venue from the county is allowed in any civil action.

(c) This section does not authorize a change of venue from the county:

- (1) concerning expenses allowed by the court incidental to the operation, management, or administration of the receivership estate;
- (2) upon any petition or proceeding to remove a receiver; or
- (3) upon the objections or exceptions to any partial or final account or report of any receiver.

(d) A change of venue is not allowed from the county of the administration of any receivership estate, or upon any petition or proceeding to remove a receiver, or upon objections or exceptions to a partial or final account or report of a receiver.

*As added by P.L.2-2002, SEC.15.*