
Michigan Receivers: Significant New Court Rule Requirements

The Michigan Supreme Court has adopted amendments to Michigan Court Rule 2.622 that will apply to receivers appointed by Michigan courts as of May 1, 2014. All receivers, and those who seek their appointment, must be aware of these broad amendments that govern the selection and appointment process, the order of appointment, the receiver's powers and duties, compensation, bond and removal. These amendments codify some principles of current practice relating to receivers but also impose new limitations and procedures. Some key points of the new provisions are:

- Every receiver must have sufficient competence, qualifications and experience to administer the receivership estate. This may impact those receivers who rely upon the retention of, and delegation of duties to, other qualified professionals to perform all or a significant part of their receivership duties.
- The court is required to appoint a receiver that is nominated by a party or parties unless (a) another party objects to the nominated receiver within 14 days of the petition seeking to appoint the nominated receiver or (b) the court finds that a different receiver should be appointed. If the court finds that a different receiver should be appointed, the court must state its rationale for selecting a particular receiver and must specifically address the necessary and relevant qualifications of the court's alternative receiver.
- The Rule provides for definitive criteria that disqualify a proposed receiver from appointment, including if the receiver has been employed by a secured creditor of the receivership estate in any professional capacity during the preceding 5-year period and there is a conflict of interest, among other situations.
- Receivers are stated to be a fiduciary for the benefit of all persons appearing in the action or proceeding.
- There are specific deadlines for reporting and filing requirements imposed upon receivers.
- A receiver may sell real property of the receivership estate but such sale must be separate court order.

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- The amended Rule is broad in scope and appears intended to definitively establish the “rules of the road” for Michigan receivers. Receivers and those who seek their appointment, as well as those who counsel receivers, must be cognizant of these new requirements and their effect on an ongoing basis during the receivership.

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