



# Practical Law Canada

## Insolvency & Restructuring

Thomson Reuters® Practical Law Canada Insolvency & Restructuring has you covered when tackling one of the most powerful remedies of a secured creditor: appointing a receiver. Our suite of resources takes you from initial vetting of security, issuing demands, and statutory notices to bringing a court application. Comprehensive practice notes, detailed checklists, and annotated standard documents allow you to think creatively and produce customized drafts with precision and efficiency.

Receivers are appointed to take control of property to manage or sell the assets for the benefit of creditors. Receivers can be court appointed on application by stakeholders under a multitude of federal and provincial statutes or they can be privately appointed by a secured creditor pursuant to the terms of a security agreement. Possible receiverships include interim receiverships, investigative receiverships, full receiverships, or receiverships over a limited property of a debtor. Most commonly, receivers are court-appointed by secured creditors pursuant to either section 243(1), Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (BIA), or the equitable jurisdiction of the court, codified in Ontario in section 101(1) of the Courts of Justice Act, R.S.O. 1990, c. C. 43.

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Practical Law Canada Insolvency & Restructuring has resources that cover the range of possible receiverships. The comprehensive suite of documents includes what you need to:

- Understand your client's needs and determine if a receivership is appropriate and if so, what type
- Vet and perfect the security of a secured creditor prior to bringing a receivership application
- Issue the required demands and notices prior to appointing a receiver
- Consider interim steps short of appointing a receiver
- Properly bring a court application for the appointment of a receiver, including complying with the:
  - Jurisdiction requirements of the BIA
  - Specialized filing requirements of the Commercial List
  - Need to give notice to affected creditors to ensure the receivers charge has priority
- Draft the court application materials

Practical Law Canada Insolvency & Restructuring ensures you have considered all the important questions and issues that may arise when contemplating appointing a receiver.



## Practice notes

### Receiverships: Overview

An overview of corporate receiverships in Canada, including court-appointed and privately appointed receivers.

### Interim Receiverships Under the BIA

An overview of interim receiverships under the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3. Interim receiverships are a remedy available to secured creditors and are a short-term measure to preserve a debtor's assets as the ultimate course of the proceedings unfold.

### Commercial List Practice Guide (ON)

Describes commercial litigation practice on the Ontario Superior Court of Justice Commercial List in Toronto. Specifically, the key features of the Commercial List, matters eligible to be heard on the List, and the special procedures and document requirements for Commercial List matters.



## Checklists

### Conducting a Security Review for a Lender Checklist

A checklist for counsel that has been retained to conduct an independent review of the loan and security documentation held by a secured lender. Such a report is typically requested by a lender contemplating enforcement action against the borrower following default.

### Appointing a Receiver Checklist

A checklist of questions to ask, issues to consider, and materials to prepare, when a lawyer is retained by a secured creditor to seek the court appointment of a receiver over a debtor's property.

### Commercial List Filing Checklist (ON)

Steps and considerations when preparing to file application or motion materials with the Ontario Superior Court of Justice Commercial List in Toronto.



## Standard documents

### Security Review: Report to a Lender

A report from an independent law firm to a secured lender reporting on the results of their review of existing loan and security documentation held by the lender in respect of a specific loan.

### Demand Letter

A standard form of demand letter provided by a lender to a borrower when a borrower is in default under its loan and the lender is ready to accelerate its loan and demand repayment.

### Notice of Intention to Enforce Security (Section 244 BIA)

A prescribed form used to provide notice to the borrower and/or guarantors of a secured creditor's intention to enforce its security over all or substantially of the inventory, accounts receivable, or other business assets of the borrower and/or guarantors.

## **Application to Appoint a Receiver (ON)**

This Standard Document can be used to prepare a Notice of Application for an application to appoint a receiver in Ontario.

## **Consent to Act as a Receiver (ON)**

This Standard Document must accompany an Ontario application seeking to appoint an interim receiver, receiver, and/or receiver-manager.



## **Standard orders and clauses**

### **Model Order Appointing Receiver (ON)**

This is an annotated version of the model Order (appointing Receiver) approved by the Toronto Commercial List Users' Committee.

### **Order Clauses (Receivership): CASL**

A Standard Clause for insertion into a court order in a receivership proceeding to ensure that the electronic sending of orders, applications, correspondence, notices, or other materials that are reasonably required in the proceedings comply with Canada's Anti-Spam Legislation.

### **Order Clauses (Receivership): Investigative Powers**

These order clauses are for insertion into a court order in connection with the appointment of an investigative receiver.

### **Order Clauses (Receivership): Payment of Pre-Filing Obligations**

These order clauses are for insertion into a court order in a receivership proceeding to provide the court-appointed receiver the authority to pay certain obligations that precede the receivership.

### **Order Clauses (Receivership): Power to Bankrupt Debtor**

A clause for insertion into a court order in a receivership proceeding to provide the court-appointed receiver with the power to bankrupt the debtor or consent to a bankruptcy order on behalf of the debtor.

