Carter Clark
Financial Recovery

Briefing Sheet

Law of Property Act Receiver

What is a Law of Property Act Receiver?

An LPA Receiver is appointed under the provisions of the Law of Property Act 1925 to deal with property. This will normally happen in situations where the lender's primary, if not only, asset is a property asset. Though often an insolvency practitioner, a chartered surveyor may also take on the role.

What does the LPA Receiver do?

Law of Property Act Receivers (also known as fixed charge receivers, though there are subtle differences between the two) act for banks and private lenders who have secured their loans by a legal charge (mortgage) on a property. Under the terms of the charge the lender can appoint a receiver to deal with a property when the terms of the mortgage are not being met – usually when repayments and interest are not being paid.

The receiver's powers are limited under the Act to collecting rents and income but these can be modified by express provisions in the security document. An LPA receiver is usually appointed with a view to selling the charged property or collecting the rental income from it for the lender. However, if an existing business is essential to maximising asset values he will seek to maintain this business as a going concern during the sales process. The Receiver also has a duty to keep property in repair and to insure.

What are the benefits/disadvantages of appointing an LPA Receiver?

LPA Receivers allow lenders to take control of their assets, securing any rental income and reducing financial loss and the risk of repossession. Receivers can also change business strategy for the asset, negotiate new leases and tenancy agreements, and secure appropriate planning permission. They can also market and dispose of property where recommended.

However, a security document is unlikely to give the LPA Receiver the power to trade any relevant business: since this power is not contained in the Act it may not be possible to maintain a business to maximise the value of the property. Trading on may prove difficult where the receiver only has access to the charged assets and, for example, not to stock that is not covered by the lender's charges.

Executive summary

Where the main or sole asset of a failing business is property, a lender can use either the Law of Property Act or the terms of the charge over the property to appoint an LPA Receiver. In principle the appointed receiver has limited powers relating to maintenance of the asset and maximising its potential. In addition, other aspects of the failing business may restrict what the receiver is permitted to do.

However, in many cases the lender and receiver can work together to create a new strategy for the asset. The capacity of the LPA Receiver to focus solely on the financial viability of the property or land can result in a better outcome for the lender than might be the case where all aspects of business operation have to be secured together.

Have a question?

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In addition, if the company is already in administration, no steps can be taken to enforce any security over the company's property except with the leave of the court. The Law of Property Act provides that if the mortgagor is in liquidation the court's permission is required before a receiver can be appointed. Existing receivers remain in office but may not realise security without court permission.

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