

PUBLICATION

Receiverships in Georgia

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In addition to Georgia's relatively swift non-judicial foreclosure process, lenders with a defaulting borrower in Georgia have the option of seeking a receivership over property securing their loans. A court-appointed receiver can, in keeping with the terms of the receivership order, manage and operate the assets and exercise broad powers over the property while the lender takes the time to come up with the best resolution for the non-performing loan. Having a well-qualified receiver in place can result in stabilized operations at a commercial property and make the property more attractive to potential purchasers, or simply protect the asset from ruin if the borrower is no longer able to perform upkeep and basic protections.

Georgia law permits the appointment of a receiver over property that secures a debt where there is "manifest danger of loss, destruction, or material injury to those interested." O.C.G.A. § 9-8-3. Generally, grounds for the appointment of a receiver include the borrower's failure to pay property taxes or to maintain appropriate insurance, the borrower's collection of rents from the property in violation of an assignment of rents agreement, and/or the borrower's having insufficient resources to maintain and operate the property, especially if there is evidence of waste or damage to the property itself.

To seek a receivership, a lender files a complaint and motion to appoint a receiver in Superior Court and requests an immediate hearing on the motion. Depending on the availability of the judge the case is assigned to, hearings can usually be scheduled quickly-- within one to three weeks of the filing of the motion for appointment of receiver. The lender should also submit a proposed receivership order outlining the specific powers and authority that the receiver will have once appointed, in addition to the receiver's obligations to report to the court and the proposed compensation plan for the receiver.