

Uniform Assignment of Rents Act

According to the Uniform Law Commissioners (ULC), the Uniform Assignment of Rents Act establishes a comprehensive statutory model for the creation, perfection, and enforcement of security interests in rents. When a creditor takes a mortgage on rental property (whether residential, commercial or industrial), does that creditor have a protected interest in the rent (income) from that rental property in the event the debtor/owner of the property defaults on the mortgage? The answer is generally and surprisingly no. Usually a mortgagee (the creditor) takes a separate assignment of rents from the mortgagor (debtor), which provides a direct right to rent payments to the mortgagee in the event of a default. But even then, the right to payment is uncertain against other competing creditors. What happens if the tenant pays the mortgagor without notice of the assignment and the mortgagee subsequently demands another payment is not clearly set out. This may put tenants in the untenable position of having to pay twice. Given the sophistication of modern real estate transactions it is a surprise that there is so much uncertainty about this ancillary, though important issue.

For that reason, the Uniform Law Commissioners promulgated the Uniform Assignment of Rents Act (UARA) in 2005. It provides basic rules that establish the “security interest” of the creditor, the rights of tenants to notice and the effect of notice, and the priority of the security interest against other creditors.

The term “security interest” is derived from commercial secured transactions law under Article 9 of the Uniform Commercial Code. A creditor’s security interest attaches to specific collateral that the creditor may possess in the event of a default on the debt. It “arises by agreement and secures performance of an obligation.” UARA provides that a “security instrument” (a mortgage, deed of trust, etc.) creates an assignment of rents unless the instrument expressly excludes such an assignment. Further, the assignment of rents creates a “presently effective security interest” which the creditor may then perfect. “Perfection” is another term derived from commercial secured transactions law. It occurs under UARA when a security instrument is registered/filed in the pertinent real estate records. Perfection provides priority in the collateral. That is, as of the date registered/filed, the security interest has priority over any unperfected security interests or security interests that are perfected by registering/filing after that date.

The effect is to make it clear that any mortgage, deed of trust or the like that provides a creditor an interest in a piece of real estate will also provide a security interest in the rental income of that property, all enforceable in the event there is a default on the debt.

An assignee of rents may obtain direct payment of rents from tenants by providing notice. UARA has specific informational provisions and a statutory form for notice that meets the informational requirements. Once notice is received, the tenant must pay the rent to the assignee. Any payment to the assignor will risk the obligation of double payment, unless the tenant occupies the rented premises as a primary residence. A copy of the notice to a tenant must also go to the assignor.

If more than one assignee gives a tenant notice, the tenant must always honor the latest notice provided. The tenant is not obligated to sort out any disputes over priority of the security interest in the rents.

Enforcement of a perfected security interest in rents may occur in two other forms. The assignee may petition for the appointment of a receiver in the event the assignor has consented or the assignee has been made insecure about enforcement of the security interest. The receiver then takes care of obtaining the rents. The second method is by notifying the assignor directly. The assignor is then required to pay proceeds of rent collection to the assignee directly.

UARA provides a remedy for the existing insecurities involved in obtaining a security interest in rents when a debtor defaults on a real estate obligation. Its uniform enactment in the states will be a boon to interstate real estate markets and it should be enacted in every state as soon as practicable.

As of December, 2009, Nevada and Utah were the only states that had enacted The Uniform Assignment of Rents Act. Interested readers can download the approved text of the Uniform Assignment of Rents Act at www.nccusl.org.

Submitted as:

Utah

[SB 54](#)

Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This [Act] shall be cited as the “Uniform Assignment of Rents
2 Act.”

3
4 Section 2. [*Definitions.*] As used in this [Act]:

5 (1) “Assignee” means a person entitled to enforce an assignment of rents.

6 (2) “Assignment of rents” means a transfer of an interest in rents in connection with an
7 obligation secured by real property located in this state and from which the rents arise.

8 (3) “Assignor” means a person that makes an assignment of rents or the successor owner
9 of the real property from which the rents arise.

10 (4) “Cash proceeds” means proceeds that are money, checks, deposit accounts, or the
11 like.

12 (5) “Day” means calendar day.

13 (6) “Deposit account” means a demand, time, savings, passbook, or similar account
14 maintained with a bank, savings bank, savings and loan association, credit union, or trust
15 company.

16 (7) “Document” means information that is inscribed on a tangible medium or that is
17 stored on an electronic or other medium and is retrievable in perceivable form.

18 (8) “Notification” means a document containing information that this [Act] requires a
19 person to provide to another, signed by the person required to provide the information.

20 (9) “Person” means an individual, corporation, business trust, estate, trust, partnership,
21 limited liability company, association, joint venture, public corporation, government, or
22 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

23 (10) “Proceeds” means personal property that is received or collected on account of a
24 tenant's obligation to pay rents.

25 (11) “Purchase” means to take by sale, lease, discount, negotiation, mortgage, pledge,
26 trust deed, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating
27 an interest in property.

28 (12) “Rents” means:

29 (a) sums payable for the right to possess or occupy, or for the actual possession or
30 occupation of, real property of another person;

31 (b) sums payable to an assignor under a policy of rental interruption insurance

- 32 covering real property;
- 33 (c) claims arising out of a default in the payment of sums payable for the right to
- 34 possess or occupy real property of another person;
- 35 (d) sums payable to terminate an agreement to possess or occupy real property of
- 36 another person;
- 37 (e) sums payable to an assignor for payment or reimbursement of expenses
- 38 incurred in owning, operating and maintaining, or constructing or installing improvements on,
- 39 real property; or
- 40 (f) any other sums payable under an agreement relating to the real property of
- 41 another person that constitute rents under law of this state other than this [Act].
- 42 (13) "Secured obligation" means an obligation the performance of which is secured by an
- 43 assignment of rents.
- 44 (14) "Security instrument" means a document, however denominated, that creates or
- 45 provides for a security interest in real property, whether or not it also creates or provides for a
- 46 security interest in personal property.
- 47 (15) "Security interest" means an interest in property that arises by agreement and
- 48 secures performance of an obligation.
- 49 (16) "Sign" means, with present intent to authenticate or adopt a document:
- 50 (a) to execute or adopt a tangible symbol; or
- 51 (b) to attach to or logically associate with the document an electronic sound,
- 52 symbol, or process.
- 53 (17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
- 54 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
- 55 the United States.
- 56 (18) "Submit for recording" means to submit a document complying with applicable legal
- 57 standards, with required fees and taxes, to the appropriate governmental office under [insert
- 58 citation].
- 59 (19) "Tenant" means a person that has an obligation to pay sums for the right to possess
- 60 or occupy, or for possessing or occupying, the real property of another person.

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Section 3. [*Manner of Giving Notification.*]

- (1) Except as otherwise provided in Subsections (3) and (4), a person gives a notification or a copy of a notification under this [Act]:
- (a) by depositing it with the United States Postal Service or with a commercially reasonable delivery service, properly addressed to the intended recipient's address as specified in Subsection (2), with first-class postage or cost of delivery provided for; or
- (b) if the recipient agreed to receive notification by facsimile transmission, electronic mail, or other electronic transmission, by sending it to the recipient in the agreed manner at the address specified in the agreement.
- (2) The following rules determine the proper address for giving a notification under Subsection (1):
- (a) A person giving a notification to an assignee shall use the address for notices to the assignee provided in the document creating the assignment of rents, but, if the assignee has provided the person giving the notification with a more recent address for notices, the person giving the notification shall use that address.
- (b) A person giving a notification to an assignor shall use the address for notices to the assignor provided in the document creating the assignment of rents, but, if the assignor has provided the person giving the notification with a more recent address for notices, the person giving the notification shall use that address.

81 (c) If a tenant's agreement with an assignor provides an address for notices to the
82 tenant and the person giving notification has received a copy of the agreement or knows the
83 address for notices specified in the agreement, the person giving the notification shall use that
84 address in giving a notification to the tenant. Otherwise, the person shall use the address of the
85 premises covered by the agreement.

86 (3) If a person giving a notification pursuant to this [Act] and the recipient have agreed to
87 the method for giving a notification, any notification must be given by that method.

88 (4) If a notification is received by the recipient, it is effective even if it was not given in
89 accordance with Subsection (1) or (3).

90
91 Section 4. [*Security Interest Creates Assignment of Rents -- Assignment of Rents Creates*
92 *Security Interest.*]

93 (1) An enforceable security instrument creates an assignment of rents arising from the
94 real property described in the security instrument, unless the security instrument provides
95 otherwise.

96 (2) An assignment of rents creates a presently effective security interest in all accrued and
97 unaccrued rents arising from the real property described in the document creating the
98 assignment, regardless of whether the document is in the form of an absolute assignment, an
99 absolute assignment conditioned upon default, an assignment as additional security, or any other
100 form. The security interest in rents is separate and distinct from any security interest held by the
101 assignee in the real property.

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103 Section 5. [*Recordation -- Perfection of Security Interest in Rents -- Priority of*
104 *Conflicting Interests in Rents.*]

105 (1) A document creating an assignment of rents may be submitted for recording in the
106 office of the county recorder for the county in which the property is situated in the same manner
107 as any other document evidencing a conveyance of an interest in real property.

108 (2) Upon recording, the security interest in rents created by an assignment of rents is fully
109 perfected, even if a provision of the document creating the assignment or law of this state other
110 than this [Act] would preclude or defer enforcement of the security interest until the occurrence
111 of a subsequent event, including a subsequent default of the assignor, the assignee's obtaining
112 possession of the real property, or the appointment of a receiver.

113 (3) Except as otherwise provided in Subsection (4), a perfected security interest in rents
114 takes priority over the rights of a person that, after the security interest is perfected:

115 (a) acquires a judicial lien against the rents or the real property from which the
116 rents arise; or

117 (b) purchases an interest in the rents or the real property from which the rents
118 arise.

119 (4) A perfected security interest in rents has priority over the rights of a person described
120 in Subsection (3) with respect to future advances to the same extent as the assignee's security
121 interest in the real property has priority over the rights of that person with respect to future
122 advances.

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124 Section 6. [*Enforcement of Security Interest in Rents.*]

125 (1) An assignee may enforce an assignment of rents using one or more of the methods
126 specified in Sections 7, 8, and 9 or any other method sufficient to enforce the assignment under
127 law of this state other than this [Act].

128 (2) From the date of enforcement, the assignee or, in the case of enforcement by
129 appointment of a receiver under Section 7, the receiver is entitled to collect all rents that:

- 130 (a) have accrued but remain unpaid on that date; and
131 (b) accrue on or after that date, as those rents accrue.

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133 Section 7. [*Enforcement by Appointment of Receiver.*]

134 (1) An assignee is entitled to the appointment of a receiver for the real property subject to
135 the assignment of rents if:

136 (a) the assignor is in default and:

137 (i) the assignor has agreed in a signed document to the appointment of a
138 receiver in the event of the assignor's default;

139 (ii) it appears likely that the real property may not be sufficient to satisfy
140 the secured obligation;

141 (iii) the assignor has failed to turn over to the assignee proceeds that the
142 assignee was entitled to collect; or

143 (iv) a subordinate assignee of rents obtains the appointment of a receiver
144 for the real property; or

145 (b) other circumstances exist that would justify the appointment of a receiver
146 under law of this state other than this [Act].

147 (2) An assignee may file a petition for the appointment of a receiver in connection with
148 an action:

149 (a) to foreclose the security instrument;

150 (b) for specific performance of the assignment;

151 (c) seeking a remedy on account of waste or threatened waste of the real property
152 subject to the assignment; or

153 (d) otherwise to enforce the secured obligation or the assignee's remedies arising
154 from the assignment.

155 (3) An assignee that files a petition under Subsection (2) shall also give a copy of the
156 petition in the manner specified in Section 3 to any other person that, ten days before the date the
157 petition is filed, held a recorded assignment of rents arising from the real property.

158 (4) If an assignee enforces an assignment of rents under this section, the date of
159 enforcement is the date on which the court enters an order appointing a receiver for the real
160 property subject to the assignment.

161 (5) From the date of its appointment, a receiver is entitled to collect rents as provided in
162 Subsection 6 (2). The receiver also has the authority provided in the order of appointment and
163 law of this state other than this [Act].

164 (6) The following rules govern priority among receivers:

165 (a) If more than one assignee qualifies under this section for the appointment of a
166 receiver, a receivership requested by an assignee entitled to priority in rents under this [Act] has
167 priority over a receivership requested by a subordinate assignee, even if a court has previously
168 appointed a receiver for the subordinate assignee.

169 (b) If a subordinate assignee obtains the appointment of a receiver, the receiver
170 may collect the rents and apply the proceeds in the manner specified in the order appointing the
171 receiver until a receiver is appointed under a senior assignment of rents.

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173 Section 8. [*Enforcement by Notification to Assignor.*]

174 (1) Upon the assignor's default, or as otherwise agreed by the assignor, the assignee may
175 give the assignor a notification demanding that the assignor pay over the proceeds of any rents
176 that the assignee is entitled to collect under Section 6. The assignee shall also give a copy of the
177 notification to any other person that, ten days before the notification date, held a recorded
178 assignment of rents arising from the real property.

179 (2) If an assignee enforces an assignment of rents under this section, the date of
180 enforcement is the date on which the assignor receives a notification under Subsection (1).

181 (3) An assignee's failure to give a notification under Subsection (1) to any person holding
182 a recorded assignment of rents does not affect the effectiveness of the notification as to the
183 assignor, but the other person is entitled to any relief permitted under law of this state other than
184 this [Act].

185 (4) An assignee that holds a security interest in rents solely by virtue of Subsection (1)
186 may not enforce the security interest under this section while the assignor occupies the real
187 property as the assignor's primary residence.

188

189 Section 9. [*Enforcement by Notification to Tenant.*]

190 (1) Upon the assignor's default, or as otherwise agreed by the assignor, the assignee may
191 give to a tenant of the real property a notification demanding that the tenant pay to the assignee
192 all unpaid accrued rents and all unaccrued rents as they accrue. The assignee shall give a copy of
193 the notification to the assignor and to any other person that, ten days before the notification date,
194 held a recorded assignment of rents arising from the real property. The notification must be
195 signed by the assignee and:

196 (a) identify the tenant, assignor, assignee, premises covered by the agreement
197 between the tenant and the assignor, and assignment of rents being enforced;

198 (b) provide the recording data for the document creating the assignment or other
199 reasonable proof that the assignment was made;

200 (c) state that the assignee has the right to collect rents in accordance with the
201 assignment;

202 (d) direct the tenant to pay to the assignee all unpaid accrued rents and all
203 unaccrued rents as they accrue;

204 (e) describe the manner in which Subsections (3) and (4) affect the tenant's
205 payment obligations;

206 (f) provide the name and telephone number of a contact person and an address to
207 which the tenant can direct payment of rents and any inquiry for additional information about the
208 assignment or the assignee's right to enforce the assignment; and

209 (g) contain a statement that the tenant may consult a lawyer if the tenant has
210 questions about its rights and obligations.

211 (2) If an assignee enforces an assignment of rents under this section, the date of
212 enforcement is the date on which the tenant receives a notification substantially complying with
213 Subsection (1).

214 (3) Subject to Subsection (4) and any other claim or defense that a tenant has under law
215 of this state other than this [Act], following receipt of a notification substantially complying with
216 Subsection (1):

217 (a) a tenant is obligated to pay to the assignee all unpaid accrued rents and all
218 unaccrued rents as they accrue, unless the tenant has previously received a notification from
219 another assignee of rents given by that assignee in accordance with this section and the other
220 assignee has not canceled that notification;

221 (b) unless the tenant occupies the premises as the tenant's primary residence, a
222 tenant that pays rents to the assignor is not discharged from the obligation to pay rents to the
223 assignee;

224 (c) a tenant's payment to the assignee of rents then due satisfies the tenant's
225 obligation under the tenant's agreement with the assignor to the extent of the payment made; and

226 (d) a tenant's obligation to pay rents to the assignee continues until the tenant
227 receives a court order directing the tenant to pay the rent in a different manner or a signed

228 document from the assignee canceling its notification, whichever occurs first.

229 (4) A tenant that has received a notification under Subsection (1) is not in default for
230 nonpayment of rents accruing within 30 days after the date the notification is received before the
231 earlier of:

232 (a) ten days after the date the next regularly scheduled rental payment would be
233 due; or

234 (b) 30 days after the date the tenant receives the notification.

235 (5) Upon receiving a notification from another creditor that is entitled to priority under
236 Subsection 5 (3) that the other creditor has enforced and is continuing to enforce its interest in
237 rents, an assignee that has given a notification to a tenant under Subsection (1) shall immediately
238 give another notification to the tenant canceling the earlier notification.

239 (6) An assignee's failure to give a notification under Subsection (1) to any person holding
240 a recorded assignment of rents does not affect the effectiveness of the notification as to the
241 assignor and those tenants receiving the notification. However, the person entitled to the
242 notification is entitled to any relief permitted by law of this state other than this [Act].

243 (7) An assignee that holds a security interest in rents solely by virtue of Subsection 4 (1)
244 may not enforce the security interest under this section while the assignor occupies the real
245 property as the assignor's primary residence.

246
247 Section 10. [*Notification to Tenant -- Form.*] No particular phrasing is required for the
248 notification specified in Section 9. However, the following form of notification, when properly
249 completed, is sufficient to satisfy the requirements of Section 9:

250
251 NOTIFICATION TO PAY RENTS TO PERSON OTHER THAN LANDLORD

252
253 Tenant: _____
254 Name of Tenant

255
256 Property Occupied by Tenant (the "Premises"): _____
257 Address

258
259 Landlord: _____
260 Name of landlord

261
262 Assignee: _____
263 Name of assignee

264
265 Address of Assignee and Telephone Number of Contact Person:

266
267 _____
268 Address of assignee

269
270 _____
271 Telephone number of person to contact

272
273 1. The Assignee named above has become the person entitled to collect your rents on
274 the Premises listed above under _____

275 Name of document
276 (the "Assignment of Rents") dated _____, and recorded at _____

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Date

Recording data

in the _____
Appropriate governmental office under the recording act of this state

You may obtain additional information about the Assignment of Rents and the Assignee's right to enforce it at the address listed above.

2. The Landlord is in default under the Assignment of Rents. Under the Assignment of Rents, the Assignee is entitled to collect rents from the Premises.

3. This notification affects your rights and obligations under the agreement under which you occupy the Premises (your "Agreement"). In order to provide you with an opportunity to consult with a lawyer, if your next scheduled rental payment is due within 30 days after you receive this notification, neither the Assignee nor the Landlord can hold you in default under your Agreement for nonpayment of that rental payment until ten days after the due date of that payment or 30 days following the date you receive this notification, whichever occurs first. You may consult a lawyer at your expense concerning your rights and obligations under your Agreement and the effect of this notification.

4. You must pay to the Assignee at the address listed above all rents under your Agreement which are due and payable on the date you receive this notification and all rents accruing under your Agreement after you receive this notification. If you pay rents to the Assignee after receiving this notification, the payment will satisfy your rental obligation to the extent of that payment.

5. Unless you occupy the Premises as your primary residence, if you pay any rents to the Landlord after receiving this notification, your payment to the Landlord will not discharge your rental obligation, and the Assignee may hold you liable for that rental obligation notwithstanding your payment to the Landlord.

6. If you have previously received a notification from another person that also holds an assignment of the rents due under your Agreement, you should continue paying your rents to the person that sent that notification until that person cancels that notification. Once that notification is canceled, you must begin paying rents to the Assignee in accordance with this notification.

7. Your obligation to pay rents to the Assignee will continue until you receive either:
(a) a written order from a court directing you to pay the rent in a manner specified in that order; or
(b) written instructions from the Assignee canceling this notification.

Name of assignee

By: Officer/authorized agent of assignee

Section 11. [*Effect of Enforcement.*] The enforcement of an assignment of rents by one or more of the methods identified in Sections 7, 8, and 9, the application of proceeds by the assignee under Section 12 after enforcement, the payment of expenses under Section 13, or an action under Subsection 14(4) does not:

- (1) make the assignee a purchaser in possession of the real property;
- (2) make the assignee an agent of the assignor;
- (3) constitute an election of remedies that precludes a later action to enforce the secured obligation;
- (4) make the secured obligation unenforceable;

- 326 (5) limit any right available to the assignee with respect to the secured obligation;
327 (6) limit, waive, or bar any foreclosure or power of sale remedy under the security
328 instrument;
329 (7) violate [cite the “one-action” statute of the state]; or
330 (8) bar a deficiency judgment pursuant to any law of this state governing or relating to
331 deficiency judgments following the enforcement of any encumbrance, lien, or security interest.
332

333 Section 12. [*Application of Proceeds.*] Unless otherwise agreed, an assignee that collects
334 rents under this [Act] or collects upon a judgment in an action under Subsection 14(4) shall apply
335 the sums collected in the following order to:

- 336 (1) the assignee's reasonable expenses of enforcing its assignment of rents, including, to
337 the extent provided for by agreement and not prohibited by law of this state other than this [Act],
338 reasonable attorney fees and costs incurred by the assignee;
339 (2) reimbursement of any expenses incurred by the assignee to protect or maintain the
340 real property subject to the assignment;
341 (3) payment of the secured obligation;
342 (4) payment of any obligation secured by a subordinate security interest or other lien on
343 the rents if, before distribution of the proceeds, the assignor and assignee receive a notification
344 from the holder of the interest or lien demanding payment of the proceeds; and
345 (5) the assignor.
346

347 Section 13. [*Application of Proceeds to Expenses of Protecting Real Property -- Claims*
348 *and Defenses of Tenant.*]

349 (1) Unless otherwise agreed by the assignee, and subject to Subsection (3), an assignee
350 that collects rents following enforcement under Section 8 or 9 need not apply them to the
351 payment of expenses of protecting or maintaining the real property subject to the assignment.

352 (2) Unless a tenant has made an enforceable agreement not to assert claims or defenses,
353 the right of the assignee to collect rents from the tenant is subject to the terms of the agreement
354 between the assignor and tenant and any claim or defense arising from the assignor's
355 nonperformance of that agreement.

356 (3) This [Act] does not limit the standing or right of a tenant to request a court to appoint
357 a receiver for the real property subject to the assignment or to seek other relief on the ground that
358 the assignee's nonpayment of expenses of protecting or maintaining the real property has caused
359 or threatened harm to the tenant's interest in the property. Whether the tenant is entitled to the
360 appointment of a receiver or other relief is governed by law of this state other than this [Act].
361

362 Section 14. [*Turnover of Rents -- Commingling and Identifiability of Rents -- Liability of*
363 *Assignor.*]

364 (1) In this section, “good faith” means honesty in fact and the observance of reasonable
365 commercial standards of fair dealing.

366 (2) If an assignor collects rents that the assignee is entitled to collect under this [Act]:
367 (a) the assignor shall turn over the proceeds to the assignee, less any amount
368 representing payment of expenses authorized by the assignee; and
369 (b) the assignee continues to have a security interest in the proceeds so long as
370 they are identifiable.

371 (3) For purposes of this [Act], cash proceeds are identifiable if they are maintained in a
372 segregated account or, if commingled with other funds, to the extent the assignee can identify
373 them by a method of tracing, including application of equitable principles, that is permitted under
374 law of this state other than this [Act] with respect to commingled funds.

375 (4) In addition to any other remedy available to the assignee under law of this state other
376 than this [Act], if an assignor fails to turn over proceeds to the assignee as required by
377 Subsection (2), the assignee may recover from the assignor in a civil action:

378 (a) the proceeds, or an amount equal to the proceeds, that the assignor was
379 obligated to turn over under Subsection (2); and

380 (b) reasonable attorney fees and costs incurred by the assignee to the extent
381 provided for by agreement and not prohibited by law of this state other than this [Act].

382 (5) The assignee may maintain an action under Subsection (4) without bringing an action
383 to foreclose any security interest that it may have in the real property. Any sums recovered in the
384 action must be applied in the manner specified in Section 12.

385 (6) Unless otherwise agreed, if an assignee entitled to priority under Subsection 5 (3)
386 enforces its interest in rents after another creditor holding a subordinate security interest in rents
387 has enforced its interest under Section 8 or 9, the creditor holding the subordinate security
388 interest in rents is not obligated to turn over any proceeds that it collects in good faith before the
389 creditor receives notification that the senior assignee has enforced its interest in rents. The
390 creditor shall turn over to the senior assignee any proceeds that it collects after it receives the
391 notification.

392
393 Section 15. [*Perfection and Priority of Assignee's Security Interest in Proceeds.*]

394 (1) In this section:

395 (a) "Article 9" means Title 70A, Act 9a, Uniform Commercial Code – Secured
396 Transactions, or, to the extent applicable to any particular issue, Article 9 as adopted by the state
397 whose laws govern that issue under the choice-of-laws rules contained in Title 70A, Act 9a,
398 Uniform Commercial Code - Secured Transactions.

399 (b) "Conflicting interest" means an interest in proceeds, held by a person other
400 than an assignee, that is:

401 (i) a security interest arising under Article 9; or

402 (ii) any other interest if Article 9 resolves the priority conflict between that
403 person and a secured party with a conflicting security interest in the proceeds.

404 (2) An assignee's security interest in identifiable cash proceeds is perfected if its security
405 interest in rents is perfected. An assignee's security interest in identifiable noncash proceeds is
406 perfected only if the assignee perfects that interest in accordance with Article 9.

407 (3) Except as otherwise provided in Subsection (4), priority between an assignee's
408 security interest in identifiable proceeds and a conflicting interest is governed by the priority
409 rules in Article 9.

410 (4) An assignee's perfected security interest in identifiable cash proceeds is subordinate to
411 a conflicting interest that is perfected by control under Article 9 but has priority over a
412 conflicting interest that is perfected other than by control.

413 (5) An assignee's perfected security interest in identifiable cash proceeds is subordinate to
414 a conflicting interest arising under a right of recoupment or setoff.

415
416 Section 16. [*Priority Subject to Subordination.*] This [Act] does not preclude
417 subordination by agreement as to rents or proceeds.

418
419 Section 17. [*Uniformity of Application and Construction.*] In applying and construing this
420 Uniform Act, consideration must be given to the need to promote uniformity of the law with
421 respect to its subject matter among states that enact it.

422
423 Section 18. [*Relation to Electronic Signatures in Global and National Commerce Act.*]

424 This [Act] modifies, limits, and supersedes the federal Electronic Signatures in Global and
425 National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit, or
426 supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery
427 of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).
428

429 Section 19. [*Application to Existing Relationships.*]

430 (1) Except as otherwise provided in this section, this [Act] governs the enforcement of an
431 assignment of rents and the perfection and priority of a security interest in rents, even if the
432 document creating the assignment was signed and delivered before May 12, 2009.

433 (2) This [Act] does not affect an action or proceeding commenced before May 12, 2009.

434 (3) Subsection 4 (1) of this [Act] does not apply to any security instrument signed and
435 delivered before May 12, 2009.

436 (4) This [Act] does not affect:

437 (a) the enforceability of an assignee's security interest in rents or proceeds if,
438 immediately before May 12, 2009, that security interest was enforceable;

439 (b) the perfection of an assignee's security interest in rents or proceeds if,
440 immediately before May 12, 2009, that security interest was perfected; or

441 (c) the priority of an assignee's security interest in rents or proceeds with respect
442 to the interest of another person if, immediately before May 12, 2009, the interest of the other
443 person was enforceable and perfected, and that priority was established.