CIVIL PRACTICE AND REMEDIES CODE

TITLE 3. EXTRAORDINARY REMEDIES

CHAPTER 64. RECEIVERSHIP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 64.001. AVAILABILITY OF REMEDY. (a) A court of competent jurisdiction may appoint a receiver:

(1) in an action by a vendor to vacate a fraudulent purchase of property;

(2) in an action by a creditor to subject any property or fund to his claim;

(3) in an action between partners or others jointly owning or interested in any property or fund;

(4) in an action by a mortgagee for the foreclosure of the mortgage and sale of the mortgaged property;

(5) for a corporation that is insolvent, is in imminent danger of insolvency, has been dissolved, or has forfeited its corporate rights; or

(6) in any other case in which a receiver may be appointed under the rules of equity.

(b) Under Subsection (a)(1), (2), or (3), the receiver may be appointed on the application of the plaintiff in the action or another party. The party must have a probable interest in or right to the property or fund, and the property or fund must be in danger of being lost, removed, or materially injured.

(c) Under Subsection (a)(4), the court may appoint a receiver only if:

(1) it appears that the mortgaged property is in danger of being lost, removed, or materially injured; or

(2) the condition of the mortgage has not been performed and the property is probably insufficient to discharge the mortgage debt.

(d) A court having family law jurisdiction or a probate court located in the county in which a missing person, as defined by Article 63.001, Code of Criminal Procedure, resides or, if the missing person is not a resident of this state, located in the

county in which the majority of the property of a missing person's estate is located may, on the court's own motion or on the application of an interested party, appoint a receiver for the missing person if:

(1) it appears that the estate of the missing person is in danger of injury, loss, or waste; and

(2) the estate of the missing person is in need of a representative.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1376, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1081, Sec. 1, 3, eff. Sept. 1, 1999.

Sec. 64.002. PERSONS NOT ENTITLED TO APPOINTMENT. (a) A court may not appoint a receiver for a corporation, partnership, or individual on the petition of the same corporation, partnership, or individual.

(b) A court may appoint a receiver for a corporation on the petition of one or more stockholders of the corporation.

(c) This section does not prohibit:

(1) appointment of a receiver for a partnership in an action arising between partners; or

(2) appointment of a receiver over all or part of the marital estate in a suit filed under Title 1 or 5, Family Code.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 3.12(a), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 165, Sec. 7.06, eff. Sept. 1, 1997.

Sec. 64.003. FOREIGN APPOINTMENT. A court outside this state may not appoint a receiver for:

(1) a person who resides in this state and for whom appointment of a receiver has been applied for in this state; or

(2) property located in this state.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.004. APPLICATION OF EQUITY RULES. Unless inconsistent with this chapter or other general law, the rules of equity govern all matters relating to the appointment, powers,

duties, and liabilities of a receiver and to the powers of a court regarding a receiver.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER B. QUALIFICATIONS, OATH, AND BOND

Sec. 64.021. QUALIFICATIONS; RESIDENCE REQUIREMENT. (a) To be appointed as a receiver for property that is located entirely or partly in this state, a person must:

(1) be a citizen and qualified voter of this state at the time of appointment; and

(2) not be a party, attorney, or other person interested in the action for appointment of a receiver.

(b) The appointment of a receiver who is disqualified under Subsection (a)(1) is void as to property in this state.

(c) A receiver must maintain actual residence in this state during the receivership.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.022. OATH. Before a person assumes the duties of a receiver, he must be sworn to perform the duties faithfully.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.023. BOND. Before a person assumes the duties of a receiver, he must execute a good and sufficient bond that is:

(1) approved by the appointing court;

(2) in an amount fixed by the court; and

(3) conditioned on faithful discharge of his duties as receiver in the named action and obedience to the orders of the court.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 64.031. GENERAL POWERS AND DUTIES. Subject to the control of the court, a receiver may:

(1) take charge and keep possession of the property;

(2) receive rents;

(3) collect and compromise demands;

(4) make transfers; and

(5) perform other acts in regard to the property as authorized by the court.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.032. INVENTORY. As soon as possible after appointment, a receiver shall return to the appointing court an inventory of all property received.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.033. SUITS BY RECEIVER. A receiver may bring suits in his official capacity without permission of the appointing court.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.034. INVESTMENTS, LOANS, AND CONTRIBUTIONS OF FUNDS. (a) Except as provided by Subsection (b), on an order of the court to which all parties consent, a receiver may invest for interest any funds that he holds.

(b) A receiver appointed for a missing person under Section 64.001(d) who has on hand an amount of money belonging to the missing person in excess of the amount needed for current necessities and expenses may, on order of the court, invest, lend, or contribute all or a part of the excess amount in the manner provided by Chapter 1161, Estates Code, for investments, loans, or contributions by guardians. The receiver shall report to the court all transactions involving the excess amount in the manner that reports are required of guardians.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1081, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.002, eff. September 1, 2017.

Sec. 64.035. DEPOSIT OF CERTAIN RAILROAD FUNDS. If a

receiver operates a railroad that lies wholly within this state, the receiver shall deposit all money that comes into his hands, from operation of the railroad or otherwise, in a place in this state directed by the court. The money shall remain on deposit until properly disbursed. If any portion of the railroad lies in another state, the court shall require the receiver to deposit in this state a share of the funds that is at least proportionate to the value of the property of the company in this state.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.036. RECEIVERSHIP PROPERTY HELD BY FINANCIAL INSTITUTION. Service or delivery of a notice of receivership, or a demand or instruction by or on behalf of a receiver, relating to receivership property held by a financial institution in the name of or on behalf of a customer of the financial institution is governed by Section 59.008, Finance Code.

Added by Acts 1999, 76th Leg., ch. 344, Sec. 7.005, eff. Sept. 1, 1999.

SUBCHAPTER D. CLAIMS AND LIABILITIES

Sec. 64.051. APPLICATION OF FUNDS; PREFERENCES. (a) A receiver shall apply the earnings of property held in receivership to the payment of the following claims in the order listed:

(1) court costs of suit;

(2) wages of employees due by the receiver;

(3) debts owed for materials and supplies purchased by the receiver for the improvement of the property held as receiver;

(4) debts due for improvements made during the receivership to the property held as receiver;

(5) claims and accounts against the receiver on contracts made by the receiver, personal injury claims and claims for stock against the receiver accruing during the receivership, and judgments rendered against the receiver for personal injuries and for stock killed; and

(6) judgments recovered in suits brought before the receiver was appointed.

(b) Claims listed in this section have a preference lien on the earnings of the property held by the receiver.

(c) The court shall ensure that the earnings are paid in the order of preference listed in this section.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.052. SUITS AGAINST RECEIVER. (a) A receiver who holds property in this state may be sued in his official capacity in a court of competent jurisdiction without permission of the appointing court.

(b) A suit against a receiver may be brought where the person whose property is in receivership resides.

(c) In a suit against a receiver, citation may be served on the receiver or on any agent of the receiver who resides in the county in which the suit is brought.

(d) The discharge of a receiver does not abate a suit against the receiver or affect the right of a party to sue the receiver.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.053. PAYMENT OF JUDGMENT AGAINST RECEIVER. The court that appointed a receiver shall order any judgment against the receiver to be paid from funds held by the receiver.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.054. JUDGMENT LIEN. A judgment rendered against a receiver in a cause of action arising during the receivership is a lien on all property held by the receiver. The lien is superior to the mortgage lien of a mortgagee who instituted the receivership.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.055. EXECUTION ON JUDGMENT. (a) To obtain payment on a judgment against a receiver, the owner of the judgment may apply to the court that appointed the receiver for an order that the receiver pay the judgment. If the receiver possesses money that is subject to payment of the judgment, but the court refuses to order payment, the owner of the judgment may apply to the court that

issued the judgment for execution on the judgment.

(b) The owner of the judgment must file with the court that issued the judgment an affidavit reciting that:

(1) he applied to the court that appointed the receiver for an order of payment;

(2) it was shown to the appointing court that the receiver had money subject to payment of the judgment at that time; and

(3) the appointing court refused to order the receiver to pay the judgment.

(c) The court that issued the judgment shall issue execution that may be levied on any property held by the receiver. The property shall be sold as under ordinary execution, and the sale of the property conveys title to the purchaser.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.056. LIABILITY OF PERSONS RECEIVING RECEIVERSHIP PROPERTY. (a) A person to whom a receiver delivers property held in receivership, including the owner of the property, a person who receives it for the owner, or an assignee of the owner is liable to the extent of the value of the property for the liabilities of the receiver arising during the receivership that are unpaid at the time of the receiver's discharge. The person receiving the property may be made a defendant to a suit against the receiver, and if judgment is rendered against the receiver, the court shall also render judgment against that defendant.

(b) A judgment against a receiver or an unpaid claim that arose during the receivership and has not been sued on at the date the receiver is discharged constitutes a preference lien on the property held by the receiver on the date of discharge. The lien is superior to the mortgage lien of a mortgagee who instituted the receivership. The person who received the property is liable on the judgment or claim to the extent of the value of the property.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER E. PROVISIONS RELATING TO RECEIVERSHIP OF CORPORATIONS

Sec. 64.071. VENUE FOR APPOINTMENT. An action to have a receiver appointed for a corporation with property in this state shall be brought in the county in which the principal office of the corporation is located.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.072. LIMITED DURATION. (a) Except as provided by this section, a court may not administer a corporation in receivership for more than three years after the date the receiver is appointed, and the court shall wind up the affairs of the corporation within that period.

(b) A court may, from time to time, extend the duration of a corporate receivership if:

(1) litigation prevents the court from winding up the affairs of the corporation within three years; or

(2) the receiver is operating the corporation as a going concern.

(c) To extend the duration of a corporate receivership, the court must have received an application for the extension and, following notice to all attorneys of record, must conduct a hearing on the extension. As required by the best interests of all concerned parties, the court may prescribe conditions for the extension and extend it for a term within the limits provided by Subsection (d). The court shall enter into its minutes the proper order extending the receivership.

(d) A court may not extend a corporate receivership for more than five years beyond the original three years, except that the court may extend for any additional period the receivership of a corporation organized under former Article 3.05(A)(2), Texas Miscellaneous Corporation Laws Act (Article 1302-3.05, Vernon's Texas Civil Statutes), Section 2.006, Business Organizations Code, before September 1, 2009, or a railroad corporation organized under the Business Organizations Code or former Title 112, Revised Statutes.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 5.001,

eff. September 1, 2011.

Sec. 64.0721. TERMINATION OF RAILROAD RECEIVERSHIP. (a) A receiver of a railroad company located wholly within this state that has been in receivership for more than 50 years may apply to the court that appointed the receiver requesting the court to:

(1) terminate the receivership; and

(2) disburse any assets of the railroad company remaining after the payment of the company's debts to one or more nonprofit charitable organizations chosen by the receiver for use in providing services within the county in which the receiver was appointed.

(b) After a receiver makes an application under Subsection (a), the receiver shall publish notice of the proposed termination of the receivership for seven consecutive days in a newspaper of general circulation in the county in which the receivership is located. The notice must state that a person with an interest in the assets of the railroad company may file a claim with the court that appointed the receiver not later than the 90th day after the final day of the publication of the notice.

(c) After the expiration of the period for filing claims provided by Subsection (b) and after the court resolves all claims filed with the court relating to the railroad company, the court shall disburse any remaining assets of the receivership to the nonprofit charitable organizations chosen by the receiver that are acceptable to the court in its discretion.

(d) Any noncash assets of a railroad company that exist when its receivership is terminated under this section escheat to the state.

Added by Acts 1997, 75th Leg., ch. 821, Sec. 1, eff. June 17, 1997.

Sec. 64.073. EARNINGS ON IMPROVED PROPERTY LIABLE FOR DEBTS. (a) A corporation in receivership shall contribute to the payment of any floating debts against it an amount equal to the full value of current earnings spent by the receiver for:

(1) improvements to the corporate property held by the receiver, the purchase of rolling stock or machinery, and other

improvements that increase the value of the property; or

(2) the extension of a road or the acquisition of land in connection with a road.

(b) If property of a corporation in receivership is sold under court order in a lien foreclosure, the court shall order the clerk to retain from the sale proceeds an amount equal to the value of improvements made by the receiver to the property sold and shall order that money to be paid to persons with a claim, debt, or judgment against the corporation. The courts shall require an amount of cash sufficient for that purpose to be paid in at the date of sale.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.074. CLAIMS PREFERENCE AGAINST CURRENT EARNINGS. A judgment or claim existing against a corporation at the time the receiver is appointed or a judgment in an action existing at that time shall be paid out of the earnings of the corporation earned during the receivership in preference to the mortgage of a mortgagee who instituted the receivership. The judgment or claim is a lien on those earnings.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.075. FORFEITURE OF CHARTER FOR UNQUALIFIED RECEIVER. If a person who is not a citizen and qualified voter of this state is appointed receiver for a domestic corporation that owns property in this state, the corporation forfeits its charter. The attorney general shall immediately bring suit in the nature of quo warranto for forfeiture of the charter.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.076. SUITS AGAINST RAILROAD RECEIVER: VENUE AND SERVICE. An action against the receiver of a railroad company may be brought in any county through or into which the railroad is constructed, and citation may be served on the receiver, the general or division superintendent, or an agent of the receiver who resides in the county in which the suit is brought. If no agent of the receiver resides in the county in which the suit is brought,

citation may be served on any agent of the receiver in this state. Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER F. RECEIVER FOR CERTAIN MINERAL INTERESTS

Sec. 64.091. RECEIVER FOR MINERAL INTERESTS OWNED BY NONRESIDENT OR ABSENTEE. (a) The purpose of this section is to encourage the exploration and development of mineral resources.

(b) In the following actions, a district court may appoint a receiver for the mineral interest or leasehold interest under a mineral lease owned by a nonresident or absent defendant:

(1) an action that is brought by a person claiming or owning an undivided mineral interest in land in this state or an undivided leasehold interest under a mineral lease of land in this state and that has one or more defendants who have, claim, or own an undivided mineral interest in the same property; or

(2) an action that is brought by a person claiming or owning an undivided leasehold interest under a mineral lease of land in this state and that has one or more defendants who have, claim, or own an undivided leasehold interest under a mineral lease of the same property.

(b-1) The defendant for whom the receiver is sought must:

(1) be a person whose residence or identity is unknown or a nonresident; and

(2) have not paid taxes on the interest or rendered it for taxes during the five-year period immediately preceding the filing of the action.

(c) The plaintiff in the action must allege by verified petition and prove that he:

(1) has made a diligent but unsuccessful effort to locate the defendant; and

(2) will suffer substantial damage or injury unless the receiver is appointed.

(d) In an action under Subsection (b)(1):

(1) the plaintiff, in the verified petition, must name the last known owner or the last record owner of the interest as defendant;

(2) the plaintiff must serve notice on the defendant by publication as provided by the Texas Rules of Civil Procedure;

(3) the court may appoint as receiver the county judge and his successors or any other resident of the county in which the land is located;

(4) notwithstanding the Texas Rules of Civil Procedure, the applicant is not required to post bond; and

(5) the receiver is not required to post bond.

(e) A receivership created under this subchapter continues as long as the defendant or his heirs, assigns, or personal representatives fail to appear in court in person or by agent or attorney to claim the defendant's interest.

(f) As ordered by the court, the receiver shall immediately:

(1) execute and deliver to a lessee or successive lessees mineral leases on the outstanding undivided mineral interests;

(2) execute and deliver to a lessee or successive lessees an assignment of the outstanding undivided leasehold interest; and

(3) enter into a unitization agreement authorized by the Railroad Commission of Texas.

(g) A lease executed by a receiver under this section may authorize the lessee to pool and unitize land subject to the lease with adjacent land into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule.

(h) Money consideration paid for the execution of a lease, assignment, or unitization agreement by the receiver must be paid to the clerk of the court in which the case is pending before the receiver executes the instrument. The court shall apply the money to the costs accruing in the case and retain any balance for the use and benefit of the nonresident or person of unknown residence who owns the mineral or leasehold interest. Payments made at a later time under the lease, assignment, or unitization agreement shall be paid into the registry of the court and impounded for the use and benefit of the owner of the mineral or leasehold interest.

(i) This section is cumulative of other laws relating to removal of a cloud from title or appointment of a receiver.

(j) In this section:

(1) "Mineral lease" includes any lease of oil, gas, or other minerals that contains provisions necessary or incident to the orderly exploration, development, and recovery of oil, gas, or other minerals.

(2) "Leasehold interest" includes ownership created under a mineral lease or carved out of a leasehold estate granted under a mineral lease, including production payments, overriding royalty interests, and working interests.

(3) "Lessee" includes an assignee under an assignment of a mineral lease.

(k) To the extent that Subsection (d)(2) conflicts with the Texas Rules of Civil Procedure, Subsection (d)(2) controls. Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with Subsection (d)(2).

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 492, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 998, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 3.01, eff. Aug. 26, 1991.

Reenacted and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 5.002, eff. September 1, 2009.

Sec. 64.092. RECEIVER FOR CONTINGENT INTERESTS IN MINERALS. (a) On the application of a person who has a vested, contingent, or possible interest in land or an estate subject to a contingent future interest, a district court of the county in which all or part of the land is located may appoint a receiver for the land or estate, pending the occurrence of the contingency and the vesting of the future interest, if:

(1) the land or estate is susceptible to drainage of oil, gas, or other minerals;

(2) lease of the land for oil, gas, or mineral development and the safe and proper investment of the proceeds will inure to the benefit and advantage of the persons entitled to the

proceeds; or

(3) lease of the land for the production of oil, gas, or other minerals is necessary for the conservation, preservation, or protection of the land or estate or of a present, contingent, or future interest in the land or estate.

(b) As authorized or directed by the court, a receiver appointed under Subsection (a) may:

(1) lease the land for the development of oil, gas, or other minerals at public or private sale and on terms and conditions directed by the court; and

(2) receive, hold, and invest the proceeds of the lease for the benefit of persons who are entitled or may become entitled to those proceeds according to their respective rights and interests.

(c) On the application of a person who has a vested, contingent, or possible interest in land or an estate that is under an oil, gas, or mineral lease and is subject to a contingent future interest, a district court of the county in which all or part of the land is located may appoint a receiver for the contingent future interests, pending the occurrence of the contingency and the vesting of the future interest, if:

(1) the lease fails to provide for pooling or contains pooling provisions that are ineffective as to the contingent future interest covered by the lease; and

(2) the pooling of the contingent future interest:

(A) is necessary to protect correlative rights;

(B) is necessary to prevent the physical or economic waste of oil, gas, or other minerals;

(C) will inure to the benefit and advantage of the persons entitled to the future interest; or

(D) is necessary for the conservation, preservation, or protection of the land or estate or of a present, contingent, or future interest in the land or estate.

(d) The lessee or an assignee of the lessee may apply for appointment of a receiver under Subsection (c). As authorized or directed by the court, the receiver appointed under that subsection may:

(1) amend the lease to authorize pooling for the contingent future interest on terms and conditions and for additional consideration directed by the court; and

(2) receive, hold, and invest the additional consideration for the benefit of the persons who are entitled or may become entitled to that consideration, according to their respective rights and interests.

(e) A court appointing a receiver under this section may confer on the receiver all powers necessary to the exercise of the receiver's authority.

(f) A lease executed or amended by a receiver under this section may authorize the lessee and his assigns to pool all or part of the land subject to the lease with adjacent land into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule.

(g) In an action for appointment of a receiver under this section, a person who has a vested, contingent, or possible interest in the land must be cited in the manner and for the time provided for in actions concerning title to land. A person not in being must be cited in the manner and for the time provided in actions against unknown owners or claimants of interest in land. In an action brought under Subsection (c), a person is not a necessary party if:

(1) the person's interest in the land subject to the lease is effectively subject to pooling authority under the lease; and

(2) enlargement of the pooling authority as to the person's interest is not sought.

(h) The court appointing a receiver under this section may order that, after payment of court costs, money paid to the receiver be deposited in the registry of the court for the use and benefit of the persons who are entitled or may become entitled to the money, according to their respective rights and interests. If the court then discharges the receiver, it may order that later payments under the lease accruing to the contingent future interest be deposited in the same manner and for the same purpose.

(i) This section does not apply to a mineral lease on land on which drilling began before October 5, 1949. This section does not authorize a lease of mineral interests on land subject to existing homestead rights without the written consent of the owner of the homestead rights given in the manner provided by law for the conveyance of homesteads.

(j) In this section, "contingent future interest" means a legal or equitable interest arising by way of remainder, reversion, possibility of reverter, executory devise, on the occurrence of a condition subsequent, or otherwise.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 64.093. RECEIVER FOR ROYALTY INTERESTS OWNED BY NONRESIDENT OR ABSENTEE. (a) A district court may appoint a receiver for the royalty interest owned by a nonresident or absent defendant in an action that:

(1) is brought by a person claiming or owning an undivided mineral interest in land in this state or an undivided leasehold interest under a mineral lease of land in the state; and

(2) has one or more defendants who have, claim, or own an undivided royalty interest in that property.

(b) The defendant for whom the receiver is sought must:

(1) be a person whose residence or identity is unknown or a nonresident; and

(2) not have paid taxes on the interest or rendered it for taxes during the five-year period immediately preceding the filing of the action.

(c) The plaintiff in the action must allege by verified petition and prove that the plaintiff:

(1) has made a diligent but unsuccessful effort to locate the defendant; and

(2) will suffer substantial damage or injury unless the receiver is appointed.

(d) In an action under Subsection (a):

(1) the plaintiff, in the petition, must name the last known owner or the last record owner of the interest as defendant;

(2) the plaintiff must serve notice on the defendant

by publication as provided by the Texas Rules of Civil Procedure;

(3) the court may appoint as receiver the county judge or any other resident of the county in which the land is located;

(4) notwithstanding the Texas Rules of Civil Procedure, the applicant is not required to post bond; and

(5) the receiver is not required to post bond.

(e) A receivership created under this section continues as long as the defendant or the defendant's heirs, assigns, or personal representatives fail to appear in court in person or by agent or attorney to claim the defendant's interest.

(f) As ordered by the court, the receiver shall immediately:

(1) ratify a mineral lease executed by a person owning an undivided mineral interest in the property;

(2) ratify a pooling agreement executed by a person owning an undivided mineral interest in the property or an undivided leasehold interest in the property; or

(3) enter into a unitization agreement authorized by the Railroad Commission of Texas.

(g) A lease ratified by a receiver under this section may authorize the lessee to pool and unitize land subject to the lease with adjacent land into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule. A pooling agreement ratified by a receiver under this section may allow a pooled unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule.

(h) The monetary consideration, if any, due for the execution of a ratification, pooling agreement, or unitization agreement by the receiver must be paid to the clerk of the court in which the case is pending before the receiver executes the instrument. It is, however, recognized that, because ratifications, pooling agreements, and unitization agreements are typically entered into in consideration of the future benefits accruing to the grantor thereof, an initial monetary consideration is not typically paid for the execution of such instruments. The

court shall apply the money to the costs accruing in the case and retain any balance for the owner of the royalty interest. Payments made at a later time under the lease, pooled unit, or unitization agreement shall be paid into the registry of the court and impounded for the owner of the royalty interest.

(i) This section is cumulative of other laws relating to removal of a cloud from title or appointment of a receiver.

(j) In this section:

(1) "Mineral lease" includes any lease of oil, gas, or other minerals that contains provisions necessary or incident to the orderly exploration, development, and recovery of oil, gas, or other minerals.

(2) "Leasehold interest" includes ownership created under a mineral lease or carved out of a leasehold estate granted under a mineral lease, including production payments, overriding royalty interests, and working interests.

(3) "Pooling agreement" includes any agreement that pools or unitizes land with adjacent land for production of oil, gas, or other minerals.

(4) "Royalty interest" includes any interest in the lands entitled to share in the production of oil, gas, or other minerals that is not required to execute a mineral lease or any other instrument in order to vest in the mineral interest owner or mineral leasehold interest owner the right and power, as to that interest, to develop oil, gas, or other minerals produced solely from those lands.

(k) To the extent that Subsection (d)(2) conflicts with the Texas Rules of Civil Procedure, Subsection (d)(2) controls. Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with Subsection (d)(2).

Added by Acts 1999, 76th Leg., ch. 1483, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 292 (H.B. 108), Sec. 2, eff. June 19, 2009.

SUBCHAPTER G. RECEIVER FOR CERTAIN MISSING PERSONS

Sec. 64.101. NOTICE AND CITATION FOR RECEIVERSHIP FOR CERTAIN MISSING PERSONS. (a) On the filing of an application for the appointment of a receiver for a missing person under Section 64.001(d), the court clerk shall issue a citation that states that the application for receivership was filed and includes:

(1) the name of the missing person; and

(2) the name of the applicant.

(b) The citation must cite all persons interested in the welfare of the missing person to appear at the time and place stated in the notice for purposes of contesting the application. The citation shall be posted.

(c) Except as provided by Section 17.032, the citation shall be published on the public information Internet website maintained as required by Section 72.034, Government Code, as added by Chapter 606 (S.B. 891), Acts of the 86th Legislature, Regular Session, 2019, and in a newspaper of general circulation:

(1) once in the county in which the missing person resides; and

(2) once in each county in which property of the missing person's estate is located.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 9.01, eff. September 1, 2021.

Sec. 64.102. PROCEEDING TO APPOINT RECEIVER. (a) The court shall appoint an attorney ad litem to represent the interests of a missing person at a proceeding to appoint a receiver for the missing person under Section 64.001(d). To be eligible for appointment as an attorney ad litem under this subsection, a person must be certified in the same manner and to the same extent as a person who is appointed as an attorney ad litem for a proposed ward under Section 1054.001, Estates Code.

(b) The court may appoint a guardian ad litem for a missing person if the court determines that the appointment would be in the best interest of the missing person. A guardian ad litem appointed under this subsection is an officer of the court. The guardian ad

litem shall protect the missing person in a manner that will enable the court to determine the appropriate action to take in relation to the best interest of the missing person.

(c) An attorney ad litem or a guardian ad litem appointed under this section is entitled to reasonable compensation for services in an amount set by the court to be charged as costs in the proceeding.

(d) The cost of a proceeding instituted for the appointment of a receiver for a missing person under Section 64.001(d) shall be paid from the receivership, if a receivership is created. If the court denies an application for appointment of a receiver, the applicant shall pay the costs of the proceeding.

(e) The term of a receivership for a missing person granted under Section 64.001(d) may not exceed six months unless, before the expiration of the term and for good cause shown, the court extends the receivership for another term not to exceed six months.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.003, eff. September 1, 2017.

Sec. 64.103. BOND. The bond under Section 64.023 required to be executed by a receiver for a missing person appointed under Section 64.001(d) must be set in an amount the court considers necessary to protect the estate of the missing person.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Sec. 64.104. EXPENDITURES BY RECEIVER. If, during the receivership for a missing person under Section 64.001(d), the needs of the spouse or dependent children of the missing person require the use of the income or corpus of the estate for education, clothing, or subsistence, the court may, with or without application, by order entered in the minutes of the court, appropriate an amount of the income or corpus sufficient for that purpose. The income or corpus shall be used by the receiver to pay claims for education, clothing, or subsistence that are presented to the court and approved and ordered to be paid.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Sec. 64.105. RECEIVER'S EXPENSES, ACCOUNT, AND COMPENSATION. (a) All necessary expenses incurred by a receiver appointed under Section 64.001(d) for a missing person in administering the property shall be reported to the court at intervals not longer than six months in length, as required by the court, and shall be reported in an annual report filed not later than the 60th day after the end of each calendar year if the court extends the receivership in accordance with Section 64.102(e). The report shall be made to the court by a sworn statement of account, including a report of:

(1) the receiver's acts;

(2) the condition of the property;

(3) the status of the threatened danger to the property; and

(4) the progress made toward abatement of the threatened danger.

(b) If the court is satisfied that the statement is correct and reasonable in all respects, the court shall promptly by order approve the report and authorize the reimbursement of the receiver from the funds under the receiver's control.

(c) For official services rendered, the receiver is entitled to be compensated in the same manner and amount as is provided by Title 3, Estates Code, for similar services rendered by guardians of estates.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.004, eff. September 1, 2017.

Sec. 64.106. CLOSING RECEIVERSHIP. When the threatened danger has abated and the estate of a missing person for whom a receiver was appointed under Section 64.001(d) is no longer liable to injury, loss, or waste for the lack of a representative or when the receivership terminates under Section 64.102(e), whichever occurs earlier, the receiver shall:

(1) report to the court; and

(2) file with the clerk a full and final sworn account of:

(A) all property received by the receiver;

(B) all sums paid out;

(C) all acts performed by the receiver with respect to the property; and

(D) all property remaining in the receiver's control.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Sec. 64.107. ACTION OF COURT. (a) If, on hearing the report and account required under Section 64.106, the court is satisfied that the danger of injury, loss, or waste has abated and that the report and account are correct, the court shall render an order finding that the danger has abated and that the report and account are correct and shall direct the receiver to deliver the property to the person from whom the receiver took possession as receiver, to the missing person, or to another person the court finds to be entitled to possession of the estate. The person to whom the property is delivered shall execute and file with the clerk an appropriate receipt for the property delivered.

(b) The order of the court shall discharge the receiver and the receiver's sureties.

(c) If the court is not satisfied that the danger has abated, or is not satisfied with the report and account, the court shall render an order continuing the receivership in effect until the court is satisfied that the danger has abated and that the report and account are correct, subject to the limitation prescribed by Section 64.102(e) for the extension of a receivership.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.

Sec. 64.108. RECORDATION OF PROCEEDINGS. All orders, bonds, reports, accounts, and notices in the receivership proceedings under this subchapter shall be recorded in the minutes of the court.

Added by Acts 1999, 76th Leg., ch. 1081, Sec. 5, eff. Sept. 1, 1999.