CHAPTER 65

Receivership and Other Provisional Remedies

**SECTION 15‑65‑10.** Appointment of receiver.

 A receiver may be appointed by a judge of the circuit court, either in or out of court:

 (1) Before judgment, on the application of either party, when he establishes an apparent right to property which is the subject of the action and which is in the possession of an adverse party and the property, or its rents and profits, are in danger of being lost or materially injured or impaired, except in cases when judgment upon failure to answer may be had without application to the court;

 (2) After judgment, to carry the judgment into effect;

 (3) After judgment, to dispose of the property according to the judgment or to preserve it during the pendency of an appeal or when an execution has been returned unsatisfied and the judgment debtor refuses to apply his property in satisfaction of the judgment;

 (4) When a corporation has been dissolved, is insolvent or in imminent danger of insolvency or has forfeited its corporate rights, and, in like cases, of the property within this State of foreign corporations; and

 (5) In such other cases as are provided by law or may be in accordance with the existing practice, except as otherwise provided in this Code.

HISTORY: 1962 Code Section 10‑2301; 1952 Code Section 10‑2301; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑20.** Notice of appointment shall be given.

 No receiver of the property of any person or corporation shall be appointed by any court or judge, either in term time or at chambers, without notice of the application for such appointment to the party to the action whose property is sought to be put in the hands of a receiver and to any party to the action in possession of such property claiming an interest therein under any contract, lease or conveyance thereof from the alleged owner. At least four days’ notice of the application must be given, unless the court shall, upon it being made to appear that delay would work injustice, prescribe a shorter time.

HISTORY: 1962 Code Section 10‑2302; 1952 Code Section 10‑2302; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑30.** Notice to nonresident.

 When the party whose property is sought to be placed in the hands of a receiver cannot be found within the State, then notice of the application to the party in possession of such property shall be sufficient. And when the property is abandoned and not in possession of anyone and the party claiming the property cannot be found within the State, then the appointment may be made without notice of the application. But whenever a receiver is appointed and the party claiming the property cannot be found within the State, notice of such appointment shall be forthwith given by publication or personal service without the State as prescribed by law in the case of a summons in a civil action.

HISTORY: 1962 Code Section 10‑2303; 1952 Code Section 10‑2303; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑50.** No receiver shall be appointed before judgment when bond is offered.

 No receiver of the property of any person or corporation shall be appointed before final judgment in the cause if the party claiming the property so sought to be placed in the hands of a receiver or the party in possession thereof shall offer a bond, in the penalty of double the value of the property, with sufficient security, approved by the clerk of the court of common pleas of the court in which the action is brought, fully to account for and deliver over, whenever thereafter required by any final adjudication in the cause, the property sought to be placed in the hands of a receiver and to meet and satisfy any decree or judgment or order that may be made in the cause.

HISTORY: 1962 Code Section 10‑2305; 1952 Code Section 10‑2305; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑60.** Effect of bond given after appointment; return of property.

 Whenever the court or judge before whom such application is made shall appoint a receiver before final judgment in the cause there shall be inserted in the order of appointment a clause fixing the value of the property for which the bond may be given, as prescribed in Section 15‑65‑50. And upon the due execution and filing of such bond thereafter before final judgment in the cause the court or judge shall vacate the appointment of such receiver and direct the redelivery of the property to the party from whose possession it was taken; provided, that when, under the orders of the court or judge, the receiver has incurred any lawful charges and expenses in the care and custody of the property put into his hands the court or judge, before directing the redelivery, may require sufficient security to be given in addition for the payment of such lawful charges and expenses should they be thereafter finally adjudged to be chargeable against the property.

HISTORY: 1962 Code Section 10‑2306; 1952 Code Section 10‑2306; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑70.** How bonds shall be made payable; filing.

 The several bonds required by this chapter shall be made payable to the clerks of the respective courts in which the action is pending in which the bonds shall be made and shall be conditioned as required by this chapter. They shall, upon execution and approval as to form and sufficiency by the court or judge, or such other officer as the order shall prescribe, be filed in the office of the clerk of court, who shall, upon demand of any party to the cause and payment of the legal fees therefor, give certified copies of such bonds on which any party entitled to the benefit thereof may sue the parties liable thereon in any court of competent jurisdiction.

HISTORY: 1962 Code Section 10‑2307; 1952 Code Section 10‑2307; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑80.** Proceedings when security becomes insufficient.

 Should the security become insufficient upon any of such bonds after they have been given and approved, the court or judge may, upon application, after notice, require the security to be made sufficient and on default therein may proceed as if no bond had been given, but without prejudice to the right of any party entitled to the benefit of such bond to enforce it according to the terms and conditions thereof.

HISTORY: 1962 Code Section 10‑2308; 1952 Code Section 10‑2308; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑90.** Charging costs and ascertaining damages if receiver is improperly appointed.

 Whenever a receiver shall have been appointed of any property against the opposition of any party to the cause and shall have taken possession of the property and thereafter by any final adjudication such receiver shall be held to have been improperly appointed, the costs, charges and expenses of such receivership shall not be charges upon the property as a whole but only upon the interests therein of the party procuring the appointment. And any party to the cause having opposed such receivership may apply to the court after final adjudication, as aforesaid, and have it referred to a master, referee or jury, as the practice in the case presented may be proper, to have his actual damages by reason of such receivership ascertained and assessed and for judgment therefor against the party or parties having procured such receiver.

HISTORY: 1962 Code Section 10‑2309; 1952 Code Section 10‑2309; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑100.** Compensation of receivers of corporate property.

 Receivers of the property within this State of foreign or other corporations shall be allowed such commissions as may be fixed by the court appointing them.

HISTORY: 1962 Code Section 10‑2310; 1952 Code Section 10‑2310; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510; 1950 (46) 1810.

**SECTION 15‑65‑110.** Deposit of money and the like in court.

 When it is admitted by the pleading or examination of a party that he has in his possession or under his control any money or other thing capable of delivery which, being the subject of litigation, is held by him as trustee for another party or which belongs or is due to another party, the court may order such money or other thing to be deposited in court or delivered to such party, with or without security, subject to the further direction of the court.

HISTORY: 1962 Code Section 10‑2311; 1952 Code Section 10‑2311; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑120.** Enforcing order for deposit.

 Whenever, in the exercise of its authority, a court shall have ordered the deposit, delivery or conveyance of money or other property and the order is disobeyed, the court, besides punishing the disobedience as for contempt, may make an order requiring the sheriff or constable to take the money or property and deposit, deliver or convey it in conformity with the direction of the court.

HISTORY: 1962 Code Section 10‑2312; 1952 Code Section 10‑2312; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.

**SECTION 15‑65‑130.** Order for sum admitted due.

 When the answer of the defendant expressly, or by not denying, admits part of the plaintiff’s claim to be just, the court on motion may order such defendant to satisfy that part of the claim and may enforce the order as it enforces a judgment or provisional remedy.

HISTORY: 1962 Code Section 10‑2313; 1952 Code Section 10‑2313; 1942 Code Section 584; 1932 Code Section 584; Civ. P. ‘22 Section 524; Civ. P. ‘12 Section 303; Civ. P. ‘02 Section 265; 1870 (14) 479 Section 267; 1897 (22) 510.