



General Assembly

January Session, 2007

**Committee Bill No. 597**

LCO No. 5012

\*05012SB00597JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT ADOPTING THE UNIFORM ASSIGNMENT OF RENTS ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) Sections 1 to 19,  
2 inclusive, of this act may be cited as the "Uniform Assignment of Rents  
3 Act".

4 Sec. 2. (NEW) (*Effective October 1, 2007*) As used in sections 1 to 19,  
5 inclusive, of this act:

6 (1) "Assignee" means a person entitled to enforce an assignment of  
7 rents.

8 (2) "Assignment of rents" means a transfer of an interest in rents in  
9 connection with an obligation secured by real property located in this  
10 state and from which the rents arise.

11 (3) "Assignor" means a person that makes an assignment of rents or  
12 the successor owner of the real property from which the rents arise.

13 (4) "Cash proceeds" means proceeds that are money, checks, deposit  
14 accounts or the like.

15 (5) "Day" means calendar day.

16 (6) "Deposit account" means a demand, time, savings, passbook or  
17 similar account maintained with a bank, savings bank, savings and  
18 loan association, credit union or trust company.

19 (7) "Document" means information that is inscribed on a tangible  
20 medium or that is stored on an electronic or other medium and is  
21 retrievable in perceivable form.

22 (8) "Notification" means a document containing information that  
23 sections 1 to 19, inclusive, of this act require a person to provide to  
24 another, signed by the person required to provide the information.

25 (9) "Person" means an individual, corporation, business trust, estate,  
26 trust, partnership, limited liability company, association, joint venture,  
27 public corporation, government or governmental subdivision, agency  
28 or instrumentality, or any other legal or commercial entity.

29 (10) "Proceeds" means personal property that is received or collected  
30 on account of a tenant's obligation to pay rents.

31 (11) "Purchase" means to take by sale, lease, discount, negotiation,  
32 mortgage, pledge, lien, security interest, issue or reissue, gift or any  
33 other voluntary transaction creating an interest in property.

34 (12) "Rents" means: (A) Sums payable for the right to possess or  
35 occupy, or for the actual possession or occupation of, real property of  
36 another person; (B) sums payable to an assignor under a policy of  
37 rental interruption insurance covering real property; (C) claims arising  
38 out of a default in the payment of sums payable for the right to possess  
39 or occupy real property of another person; (D) sums payable to  
40 terminate an agreement to possess or occupy real property of another  
41 person; (E) sums payable to an assignor for payment or reimbursement  
42 of expenses incurred in owning, operating and maintaining, or  
43 constructing or installing improvements on, real property; or (F) any  
44 other sums payable under an agreement relating to the real property of

45 another person that constitute rents under the law of this state other  
46 than sections 1 to 19, inclusive, of this act.

47 (13) "Secured obligation" means an obligation the performance of  
48 which is secured by an assignment of rents.

49 (14) "Security instrument" means a document, however  
50 denominated, that creates or provides for a security interest in real  
51 property, whether or not it also creates or provides for a security  
52 interest in personal property.

53 (15) "Security interest" means an interest in property that arises by  
54 agreement and secures performance of an obligation.

55 (16) "Sign" means, with present intent to authenticate or adopt a  
56 document: (A) To execute or adopt a tangible symbol; or (B) to attach  
57 to or logically associate with the document an electronic sound,  
58 symbol or process.

59 (17) "State" means a state of the United States, the District of  
60 Columbia, Puerto Rico, the United States Virgin Islands, or any  
61 territory or insular possession subject to the jurisdiction of the United  
62 States.

63 (18) "Submit for recording" means to submit a document complying  
64 with applicable legal standards, with required fees and taxes, to the  
65 appropriate governmental office under the law of this state.

66 (19) "Tenant" means a person that has an obligation to pay sums for  
67 the right to possess or occupy, or for possessing or occupying, the real  
68 property of another person.

69 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) Except as otherwise  
70 provided in subsections (c) and (d) of this section, a person gives a  
71 notification or a copy of a notification under sections 1 to 19, inclusive,  
72 of this act:

73 (1) By depositing it with the United States Postal Service or with a  
74 commercially reasonable delivery service, properly addressed to the  
75 intended recipient's address as specified in subsection (b) of this  
76 section, with first class postage or cost of delivery provided for; or

77 (2) If the recipient agreed to receive notification by facsimile  
78 transmission, electronic mail or other electronic transmission, by  
79 sending it to the recipient in the agreed manner at the address  
80 specified in the agreement.

81 (b) The following rules determine the proper address for giving a  
82 notification under subsection (a) of this section:

83 (1) A person giving a notification to an assignee shall use the  
84 address for notices to the assignee provided in the document creating  
85 the assignment of rents, but, if the assignee has provided the person  
86 giving the notification with a more recent address for notices, the  
87 person giving the notification shall use that address.

88 (2) A person giving a notification to an assignor shall use the  
89 address for notices to the assignor provided in the document creating  
90 the assignment of rents, but, if the assignor has provided the person  
91 giving the notification with a more recent address for notices, the  
92 person giving the notification shall use that address.

93 (3) If a tenant's agreement with an assignor provides an address for  
94 notices to the tenant and the person giving notification has received a  
95 copy of the agreement or knows the address for notices specified in the  
96 agreement, the person giving the notification shall use that address in  
97 giving a notification to the tenant. Otherwise, the person shall use the  
98 address of the premises covered by the agreement.

99 (c) If a person giving a notification pursuant to sections 1 to 19,  
100 inclusive, of this act and the recipient have agreed to the method for  
101 giving a notification, any notification shall be given by that method.

102 (d) If a notification is received by the recipient, it is effective even if

103 it was not given in accordance with subsection (a) or (c) of this section.

104 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) An enforceable security  
105 instrument creates an assignment of rents arising from the real  
106 property described in the security instrument, unless the security  
107 instrument provides otherwise.

108 (b) An assignment of rents creates a presently effective security  
109 interest in all accrued and unaccrued rents arising from the real  
110 property described in the document creating the assignment,  
111 regardless of whether the document is in the form of an absolute  
112 assignment, an absolute assignment conditioned upon default, an  
113 assignment as additional security, or any other form. The security  
114 interest in rents is separate and distinct from any security interest held  
115 by the assignee in the real property.

116 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) A document creating an  
117 assignment of rents may be submitted for recording in the office of the  
118 town clerk of the town in which the real property from which the rents  
119 arise is located, in the same manner as any other document evidencing  
120 a conveyance of an interest in real property.

121 (b) Upon recording, the security interest in rents created by an  
122 assignment of rents is fully perfected, even if a provision of the  
123 document creating the assignment or the law of this state other than  
124 sections 1 to 19, inclusive, of this act would preclude or defer  
125 enforcement of the security interest until the occurrence of a  
126 subsequent event, including a subsequent default of the assignor, the  
127 assignee's obtaining possession of the real property or the appointment  
128 of a receiver.

129 (c) Except as otherwise provided in subsection (d) of this section, a  
130 perfected security interest in rents takes priority over the rights of a  
131 person that, after the security interest is perfected:

132 (1) Acquires a judicial lien against the rents or the real property

133 from which the rents arise; or

134 (2) Purchases an interest in the rents or the real property from which  
135 the rents arise.

136 (d) A perfected security interest in rents has priority over the rights  
137 of a person described in subsection (c) of this section with respect to  
138 future advances to the same extent as the assignee's security interest in  
139 the real property has priority over the rights of that person with  
140 respect to future advances.

141 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) An assignee may enforce  
142 an assignment of rents using one or more of the methods specified in  
143 sections 7, 8 and 9 of this act or any other method sufficient to enforce  
144 the assignment under the law of this state other than sections 1 to 19,  
145 inclusive, of this act.

146 (b) From the date of enforcement, the assignee or, in the case of  
147 enforcement by appointment of a receiver under section 7 of this act,  
148 the receiver, is entitled to collect all rents that: (1) Have accrued but  
149 remain unpaid on that date; and (2) accrue on or after that date, as  
150 those rents accrue.

151 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) An assignee is entitled to  
152 the appointment of a receiver for the real property subject to the  
153 assignment of rents if:

154 (1) The assignor is in default and: (A) The assignor has agreed in a  
155 signed document to the appointment of a receiver in the event of the  
156 assignor's default; (B) it appears likely that the real property may not  
157 be sufficient to satisfy the secured obligation; (C) the assignor has  
158 failed to turn over to the assignee proceeds that the assignee was  
159 entitled to collect; or (D) a subordinate assignee of rents obtains the  
160 appointment of a receiver for the real property; or

161 (2) Other circumstances exist that would justify the appointment of  
162 a receiver under the law of this state other than sections 1 to 19,

163 inclusive, of this act.

164 (b) An assignee may file a petition for the appointment of a receiver  
165 in connection with an action:

166 (1) To foreclose the security instrument;

167 (2) For specific performance of the assignment;

168 (3) Seeking a remedy on account of waste or threatened waste of the  
169 real property subject to the assignment; or

170 (4) Otherwise to enforce the secured obligation or the assignee's  
171 remedies arising from the assignment.

172 (c) An assignee that files a petition under subsection (b) of this  
173 section shall also give a copy of the petition in the manner specified in  
174 section 3 of this act to any other person that, ten days before the date  
175 the petition is filed, held a recorded assignment of rents arising from  
176 the real property.

177 (d) If an assignee enforces an assignment of rents under this section,  
178 the date of enforcement is the date on which the court enters an order  
179 appointing a receiver for the real property subject to the assignment.

180 (e) From the date of its appointment, a receiver is entitled to collect  
181 rents as provided in subsection (b) of section 6 of this act. The receiver  
182 also has the authority provided in the order of appointment and the  
183 law of this state other than sections 1 to 19, inclusive, of this act.

184 (f) The following rules govern priority among receivers:

185 (1) If more than one assignee qualifies under this section for the  
186 appointment of a receiver, a receivership requested by an assignee  
187 entitled to priority in rents under sections 1 to 19, inclusive, of this act  
188 has priority over a receivership requested by a subordinate assignee,  
189 even if a court has previously appointed a receiver for the subordinate  
190 assignee.

191 (2) If a subordinate assignee obtains the appointment of a receiver,  
192 the receiver may collect the rents and apply the proceeds in the  
193 manner specified in the order appointing the receiver until a receiver is  
194 appointed under a senior assignment of rents.

195 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) Upon the assignor's  
196 default, or as otherwise agreed by the assignor, the assignee may give  
197 the assignor a notification demanding that the assignor pay over the  
198 proceeds of any rents that the assignee is entitled to collect under  
199 section 6 of this act. The assignee shall also give a copy of the  
200 notification to any other person that, ten days before the notification  
201 date, held a recorded assignment of rents arising from the real  
202 property.

203 (b) If an assignee enforces an assignment of rents under this section,  
204 the date of enforcement is the date on which the assignor receives a  
205 notification under subsection (a) of this section.

206 (c) An assignee's failure to give a notification under subsection (a) of  
207 this section to any person holding a recorded assignment of rents does  
208 not affect the effectiveness of the notification as to the assignor, but the  
209 other person is entitled to any relief permitted under the law of this  
210 state other than sections 1 to 19, inclusive, of this act.

211 (d) An assignee that holds a security interest in rents solely by  
212 virtue of subsection (a) of section 4 of this act may not enforce the  
213 security interest under this section while the assignor occupies the real  
214 property as the assignor's primary residence.

215 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Upon the assignor's  
216 default, or as otherwise agreed by the assignor, the assignee may give  
217 to a tenant of the real property a notification demanding that the  
218 tenant pay to the assignee all unpaid accrued rents and all unaccrued  
219 rents as they accrue. The assignee shall give a copy of the notification  
220 to the assignor and to any other person that, ten days before the  
221 notification date, held a recorded assignment of rents arising from the

222 real property. The notification shall be signed by the assignee and:

223 (1) Identify the tenant, assignor, assignee, premises covered by the  
224 agreement between the tenant and the assignor, and assignment of  
225 rents being enforced;

226 (2) Provide the recording data for the document creating the  
227 assignment or other reasonable proof that the assignment was made;

228 (3) State that the assignee has the right to collect rents in accordance  
229 with the assignment;

230 (4) Direct the tenant to pay to the assignee all unpaid accrued rents  
231 and all unaccrued rents as they accrue;

232 (5) Describe the manner in which subsections (c) and (d) of this  
233 section affect the tenant's payment obligations;

234 (6) Provide the name and telephone number of a contact person and  
235 an address to which the tenant can direct payment of rents and any  
236 inquiry for additional information about the assignment or the  
237 assignee's right to enforce the assignment; and

238 (7) Contain a statement that the tenant may consult a lawyer if the  
239 tenant has questions about its rights and obligations.

240 (b) If an assignee enforces an assignment of rents under this section,  
241 the date of enforcement is the date on which the tenant receives a  
242 notification substantially complying with subsection (a) of this section.

243 (c) Subject to subsection (d) of this section and any other claim or  
244 defense that a tenant has under the law of this state other than sections  
245 1 to 19, inclusive, of this act, following receipt of a notification  
246 substantially complying with subsection (a) of this section:

247 (1) A tenant is obligated to pay to the assignee all unpaid accrued  
248 rents and all unaccrued rents as they accrue, unless the tenant has  
249 previously received a notification from another assignee of rents given

250 by that assignee in accordance with this section and the other assignee  
251 has not canceled that notification;

252 (2) Unless the tenant occupies the premises as the tenant's primary  
253 residence, a tenant that pays rents to the assignor is not discharged  
254 from the obligation to pay rents to the assignee;

255 (3) A tenant's payment to the assignee of rents then due satisfies the  
256 tenant's obligation under the tenant's agreement with the assignor to  
257 the extent of the payment made; and

258 (4) A tenant's obligation to pay rents to the assignee continues until  
259 the tenant receives a court order directing the tenant to pay the rent in  
260 a different manner or a signed document from the assignee canceling  
261 its notification, whichever occurs first.

262 (d) A tenant that has received a notification under subsection (a) of  
263 this section is not in default for nonpayment of rents accruing within  
264 thirty days after the date the notification is received before the earlier  
265 of: (1) Ten days after the date the next regularly scheduled rental  
266 payment would be due; or (2) thirty days after the date the tenant  
267 receives the notification.

268 (e) Upon receiving a notification from another creditor that is  
269 entitled to priority under subsection (c) of section 5 of this act that the  
270 other creditor has enforced and is continuing to enforce its interest in  
271 rents, an assignee that has given a notification to a tenant under  
272 subsection (a) of this section shall immediately give another  
273 notification to the tenant canceling the earlier notification.

274 (f) An assignee's failure to give a notification under subsection (a) of  
275 this section to any person holding a recorded assignment of rents does  
276 not affect the effectiveness of the notification as to the assignor and  
277 those tenants receiving the notification, provided, the person entitled  
278 to the notification is entitled to any relief permitted by the law of this  
279 state other than sections 1 to 19, inclusive, of this act.

280 (g) An assignee that holds a security interest in rents solely by virtue  
281 of subsection (a) of section 4 of this act may not enforce the security  
282 interest under this section while the assignor occupies the real  
283 property as the assignor's primary residence.

284 Sec. 10. (NEW) (*Effective October 1, 2007*) No particular phrasing is  
285 required for the notification specified in section 9 of this act, provided,  
286 the following form of notification, when properly completed, is  
287 sufficient to satisfy the requirements of section 9 of this act:

288 NOTIFICATION TO PAY RENTS TO PERSON OTHER THAN  
289 LANDLORD

290 Tenant: (insert name of tenant)

291 Property Occupied by Tenant (the "Premises"): (insert address)

292 Landlord: (insert name of landlord)

293 Assignee: (insert name of assignee)

294 Address of Assignee and Telephone Number of Contact Person:  
295 (insert address of assignee and telephone number of person to contact)

296 1. The Assignee named above has become the person entitled to  
297 collect your rents on the Premises listed above under (insert name of  
298 document) (the "Assignment of Rents") dated (insert date), and  
299 recorded at (insert recording data) in the (insert appropriate town  
300 clerk's office). You may obtain additional information about the  
301 Assignment of Rents and the Assignee's right to enforce it at the  
302 address listed above.

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

306 3. This notification affects your rights and obligations under the  
307 agreement under which you occupy the Premises (your "Agreement").

308 In order to provide you with an opportunity to consult with a lawyer,  
309 if your next scheduled rental payment is due within thirty days after  
310 you receive this notification, neither the Assignee nor the Landlord can  
311 hold you in default under your Agreement for nonpayment of that  
312 rental payment until ten days after the due date of that payment or  
313 thirty days following the date you receive this notification, whichever  
314 occurs first. You may consult a lawyer at your expense concerning  
315 your rights and obligations under your Agreement and the effect of  
316 this notification.

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

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

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

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

338 Name of assignee

339 By: Officer/authorized agent of assignee

340 Sec. 11. (NEW) (*Effective October 1, 2007*) The enforcement of an  
341 assignment of rents by one or more of the methods identified in  
342 sections 7, 8 and 9 of this act, the application of proceeds by the  
343 assignee under section 12 of this act after enforcement, the payment of  
344 expenses under section 13 of this act or an action under subsection (d)  
345 of section 14 of this act does not:

346 (1) Make the assignee a mortgagee in possession of the real  
347 property;

348 (2) Make the assignee an agent of the assignor;

349 (3) Constitute an election of remedies that precludes a later action to  
350 enforce the secured obligation;

351 (4) Make the secured obligation unenforceable;

352 (5) Limit any right available to the assignee with respect to the  
353 secured obligation; or

354 (6) Bar a deficiency judgment pursuant to any law of this state  
355 governing or relating to deficiency judgments following the  
356 enforcement of any encumbrance, lien or security interest.

357 Sec. 12. (NEW) (*Effective October 1, 2007*) Unless otherwise agreed,  
358 an assignee that collects rents under sections 1 to 19, inclusive, of this  
359 act or collects upon a judgment in an action under subsection (d) of  
360 section 14 of this act shall apply the sums collected in the following  
361 order to:

362 (1) The assignee's reasonable expenses of enforcing its assignment of  
363 rents, including, to the extent provided for by agreement and not  
364 prohibited by the law of this state other than sections 1 to 19, inclusive,  
365 of this act, reasonable attorney's fees and costs incurred by the  
366 assignee;

367 (2) Reimbursement of any expenses incurred by the assignee to  
368 protect or maintain the real property subject to the assignment;

369 (3) Payment of the secured obligation;

370 (4) Payment of any obligation secured by a subordinate security  
371 interest or other lien on the rents if, before distribution of the proceeds,  
372 the assignor and assignee receive a notification from the holder of the  
373 interest or lien demanding payment of the proceeds; and

374 (5) The assignor.

375 Sec. 13. (NEW) (*Effective October 1, 2007*) (a) Unless otherwise agreed  
376 by the assignee, and subject to subsection (c) of this section, an  
377 assignee that collects rents following enforcement under section 8 or 9  
378 of this act need not apply them to the payment of expenses of  
379 protecting or maintaining the real property subject to the assignment.

380 (b) Unless a tenant has made an enforceable agreement not to assert  
381 claims or defenses, the right of the assignee to collect rents from the  
382 tenant is subject to the terms of the agreement between the assignor  
383 and tenant and any claim or defense arising from the assignor's  
384 nonperformance of that agreement.

385 (c) Sections 1 to 19, inclusive, of this act do not limit the standing or  
386 right of a tenant to request a court to appoint a receiver for the real  
387 property subject to the assignment or to seek other relief on the ground  
388 that the assignee's nonpayment of expenses of protecting or  
389 maintaining the real property has caused or threatened harm to the  
390 tenant's interest in the property. Whether the tenant is entitled to the  
391 appointment of a receiver or other relief is governed by the law of this  
392 state other than sections 1 to 19, inclusive, of this act.

393 Sec. 14. (NEW) (*Effective October 1, 2007*) (a) As used in this section,  
394 "good faith" means honesty in fact and the observance of reasonable  
395 commercial standards of fair dealing.

396 (b) If an assignor collects rents that the assignee is entitled to collect  
397 under sections 1 to 19, inclusive, of this act:

398 (1) The assignor shall turn over the proceeds to the assignee, less  
399 any amount representing payment of expenses authorized by the  
400 assignee; and

401 (2) The assignee continues to have a security interest in the proceeds  
402 as long as they are identifiable.

403 (c) For purposes of sections 1 to 19, inclusive, of this act, cash  
404 proceeds are identifiable if they are maintained in a segregated account  
405 or, if commingled with other funds, to the extent the assignee can  
406 identify them by a method of tracing, including application of  
407 equitable principles, that is permitted under the law of this state other  
408 than sections 1 to 19, inclusive, of this act with respect to commingled  
409 funds.

410 (d) In addition to any other remedy available to the assignee under  
411 the law of this state other than sections 1 to 19, inclusive, of this act, if  
412 an assignor fails to turn over proceeds to the assignee as required by  
413 subsection (b) of this section, the assignee may recover from the  
414 assignor in a civil action:

415 (1) The proceeds, or an amount equal to the proceeds, that the  
416 assignor was obligated to turn over under subsection (b) of this  
417 section; and

418 (2) Reasonable attorney's fees and costs incurred by the assignee to  
419 the extent provided for by agreement and not prohibited by the law of  
420 this state other than sections 1 to 19, inclusive, of this act.

421 (e) The assignee may maintain an action under subsection (d) of this  
422 section without bringing an action to foreclose any security interest  
423 that it may have in the real property. Any sums recovered in the action  
424 shall be applied in the manner specified in section 12 of this act.

425 (f) Unless otherwise agreed, if an assignee entitled to priority under  
426 subsection (c) of section 5 of this act enforces its interest in rents after  
427 another creditor holding a subordinate security interest in rents has  
428 enforced its interest under section 8 or 9 of this act, the creditor  
429 holding the subordinate security interest in rents is not obligated to  
430 turn over any proceeds that it collects in good faith before the creditor  
431 receives notification that the senior assignee has enforced its interest in  
432 rents. The creditor shall turn over to the senior assignee any proceeds  
433 that it collects after it receives the notification.

434 Sec. 15. (NEW) (*Effective October 1, 2007*) (a) As used in this section:

435 (1) "Article 9" means article 9 of title 42a of the general statutes or, to  
436 the extent applicable to any particular issue, Article 9 of the Uniform  
437 Commercial Code as adopted by the state whose laws govern that  
438 issue under the choice of law rules contained in article 9 of title 42a of  
439 the general statutes.

440 (2) "Conflicting interest" means an interest in proceeds, held by a  
441 person other than an assignee, that is: (A) A security interest arising  
442 under article 9; or (B) any other interest if article 9 resolves the priority  
443 conflict between that person and a secured party with a conflicting  
444 security interest in the proceeds.

445 (b) An assignee's security interest in identifiable cash proceeds is  
446 perfected if its security interest in rents is perfected. An assignee's  
447 security interest in identifiable noncash proceeds is perfected only if  
448 the assignee perfects that interest in accordance with article 9.

449 (c) Except as otherwise provided in subsection (d) of this section,  
450 priority between an assignee's security interest in identifiable proceeds  
451 and a conflicting interest is governed by the priority rules in article 9.

452 (d) An assignee's perfected security interest in identifiable cash  
453 proceeds is subordinate to a conflicting interest that is perfected by  
454 control under article 9 but has priority over a conflicting interest that is

455 perfected other than by control.

456 Sec. 16. (NEW) (*Effective October 1, 2007*) Sections 1 to 19, inclusive,  
457 of this act do not preclude subordination by agreement as to rents or  
458 proceeds.

459 Sec. 17. (NEW) (*Effective October 1, 2007*) In applying and construing  
460 the uniform provisions of sections 1 to 19, inclusive, of this act,  
461 consideration must be given to the need to promote uniformity of the  
462 law with respect to its subject matter among states that enact such  
463 uniform provisions.

464 Sec. 18. (NEW) (*Effective October 1, 2007*) Sections 1 to 19, inclusive,  
465 of this act modify, limit and supersede the federal Electronic  
466 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,  
467 but do not modify, limit or supersede Section 101(c) of said act, 15 USC  
468 7001(c), or authorize electronic delivery of any of the notices described  
469 in Section 103(b) of said act, 15 USC 7003(b).

470 Sec. 19. (NEW) (*Effective October 1, 2007*) (a) Except as otherwise  
471 provided in this section, sections 1 to 19, inclusive, of this act govern  
472 the enforcement of an assignment of rents and the perfection and  
473 priority of a security interest in rents, even if the document creating the  
474 assignment was signed and delivered before the effective date of this  
475 section.

476 (b) Sections 1 to 19, inclusive, of this act do not affect an action or  
477 proceeding commenced before the effective date of this section.

478 (c) Subsection (a) of section 4 of this act does not apply to any  
479 security instrument signed and delivered before the effective date of  
480 this section.

481 (d) Sections 1 to 19, inclusive, of this act do not affect:

482 (1) The enforceability of an assignee's security interest in rents or  
483 proceeds if, immediately before the effective date of this section, that

484 security interest was enforceable;

485 (2) The perfection of an assignee's security interest in rents or  
 486 proceeds if, immediately before the effective date of this section, that  
 487 security interest was perfected; or

488 (3) The priority of an assignee's security interest in rents or proceeds  
 489 with respect to the interest of another person if, immediately before the  
 490 effective date of this section, the interest of the other person was  
 491 enforceable and perfected, and that priority was established.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section
Sec. 11	<i>October 1, 2007</i>	New section
Sec. 12	<i>October 1, 2007</i>	New section
Sec. 13	<i>October 1, 2007</i>	New section
Sec. 14	<i>October 1, 2007</i>	New section
Sec. 15	<i>October 1, 2007</i>	New section
Sec. 16	<i>October 1, 2007</i>	New section
Sec. 17	<i>October 1, 2007</i>	New section
Sec. 18	<i>October 1, 2007</i>	New section
Sec. 19	<i>October 1, 2007</i>	New section

**Statement of Purpose:**

To adopt the Uniform Assignment of Rents Act, bringing consistency to commercial real property transactions by establishing a comprehensive statutory model for the creation, perfection and enforcement of security interests in rents derived from real estate.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: SEN. HARRIS, 5th Dist.

S.B. 597