

654.14 Preference in receivership application of rents.

In an action to foreclose a real estate mortgage, if a receiver is appointed to take charge of the real estate, preference shall be given to the owner or person in actual possession, subject to approval of the court, in leasing the mortgaged premises. If the real estate is agricultural land used for farming, as defined in section 9H.1, the owner or person in actual possession shall be appointed as receiver without bond, provided that all parties agree to the appointment. The rents, profits, avails, and income derived from the real estate shall be applied as follows:

1. To the cost of receivership.
2. To the payment of taxes due or becoming due during said receivership.
3. To pay the insurance on buildings on the premises and/or such other benefits to the real estate as may be ordered by the court.
4. The balance shall be paid and distributed as determined by the court.

If the owner or person in actual possession of agricultural land as defined in section 9H.1 is not afforded a right of first refusal in leasing the mortgaged premises by the receiver, the owner or person in actual possession has a cause of action against the receiver to recover either actual damages or a one thousand dollar penalty, and costs, including reasonable attorney's fees. The receiver shall deliver notice to the owner or person in actual possession or the attorney of the owner or person in actual possession, of an offer made to the receiver, the terms of the offer, and the name and address of the person making the offer. The delivery shall be made personally with receipt returned or by certified or registered mail, with the proper postage on the envelope, addressed to the owner or person in actual possession or the attorney of the owner or person in actual possession. An offer shall be deemed to have been refused if the owner or person in actual possession or the attorney of the owner or person in actual possession does not respond within ten days following the date that the notice is mailed.

[C35, § 12383-e2; C39, § **12383.2**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 654.14]

86 Acts, ch 1214, § 13; 87 Acts, ch 142, §3