

§367-A. Additional authority in conservation and liquidation

1. Attachments and preferences. The superintendent or a conservator or receiver may bring an action:

A. To dissolve all attachments on the property of a financial institution made within 4 months before the appointment made under section 363-A or 365; [PL 2005, c. 83, §10 (NEW).]

B. To void as a preference any transfer made after, or in contemplation of, the appointment under section 363-A or 365; and [PL 2005, c. 83, §10 (NEW).]

C. To discontinue all actions pending against the financial institution. [PL 2005, c. 83, §10 (NEW).]

[PL 2005, c. 83, §10 (NEW).]

2. Injunctions. Whenever proceedings are instituted under this chapter, the Superior Court may issue an injunction restraining all persons from proceeding against the financial institution described in section 363-A or 365 until termination of conservatorship or final liquidation, including trustee processes.

[PL 2005, c. 83, §10 (NEW).]

3. Other authority. The superintendent, conservator or receiver may disaffirm or repudiate any contract or lease to which the financial institution is a party, fix the rights of the claimants and adjudicate and fix the time and mode of payment of all claims, accounts and deposits having priority.

[PL 2005, c. 83, §10 (NEW).]

4. Proceedings generally. The superintendent, conservator or receiver may bring an action described in this chapter, or any other action as determined appropriate, in the county in which the financial institution is located or has its principal place of business or in the Superior Court of Kennebec County. The proceedings may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[PL 2011, c. 559, Pt. A, §7 (AMD).]

5. Powers of superintendent. The superintendent has the following powers.

A. The superintendent may take any actions necessary to carry out the terms and provisions of this chapter. [PL 2005, c. 83, §10 (NEW).]

B. All powers conferred under this chapter on the superintendent are in addition to the powers otherwise conferred upon the superintendent by law. [PL 2005, c. 83, §10 (NEW).]

C. The superintendent may adopt rules for the purpose of carrying out provisions of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 83, §10 (NEW).]

[PL 2005, c. 83, §10 (NEW).]

6. Mergers. The conservator or receiver, with the approval of the superintendent, may order the merger or consolidation of any financial institution that is described in section 363-A or 365 with any other financial institution, state-chartered or federally chartered, with the consent of the other financial institution and may prescribe the mode or procedure for the merger or consolidation and the terms and conditions of the merger or consolidation. Unless limited by the conservator or receiver, the effect of the merger on various property interests and fiduciary designations of the resulting institution is the same as described for mergers subject to section 357, subsection 1.

[PL 2023, c. 30, §5 (AMD).]

7. Fiduciary accounts. A conservator or receiver may terminate fiduciary positions of the financial institution, surrender property held by the financial institution as a fiduciary and settle fiduciary accounts. The conservator or receiver may release fiduciary property to one or more successor

fiduciaries, and may sell one or more fiduciary accounts to one or more successor fiduciaries. Upon a sale or transfer of a financial institution's fiduciary property or a fiduciary account by a conservator or receiver, the successor fiduciary is automatically substituted without further action and without any order of any court. The conservator or receiver shall provide notice of the substitution, as far as practicable, to each person to whom the financial institution provides periodic reports of fiduciary activity. The notice must include the name of the financial institution, the name of the successor fiduciary and the effective date of the substitution. The successor fiduciary has all of the rights, powers, duties and obligations of the transferring financial institution and is deemed to be named, nominated or appointed as fiduciary in any will, trust, court order or similar written document or instrument that names, nominates or appoints the transferring financial institution as fiduciary, whether executed before or after the substitution. The successor fiduciary has no obligations or liabilities under this chapter for any acts, actions, inactions or events occurring prior to the effective date of the substitution.

[PL 2023, c. 30, §6 (NEW).]

SECTION HISTORY

PL 2005, c. 83, §10 (NEW). PL 2011, c. 559, Pt. A, §7 (AMD). PL 2023, c. 30, §§5, 6 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.