

### §369. Judicial review

**1. Action by financial institution.** A financial institution closed by action of the superintendent pursuant to this chapter may bring an action challenging the superintendent's appointment of a receiver in the Superior Court of Kennebec County within 10 days after the superintendent appoints a receiver.

The court must uphold the superintendent's finding that a financial institution is insolvent or that its condition is such as to render its further proceedings hazardous to the public or to those having funds in its custody and must uphold the appointment of a receiver unless the court finds that the superintendent's action was arbitrary and capricious.

[PL 2009, c. 228, §7 (NEW).]

**2. Action by person adversely affected.** Except when the Federal Deposit Insurance Corporation is appointed receiver and conducts a receivership under federal law, a person affected adversely by an act or omission of the superintendent or receiver under this section and sections 365, 367-A and 368 may bring an action in the Superior Court of Kennebec County seeking an order to annul, alter or modify the act or to enjoin the performance of the act or to require that action be taken under any provision of this section.

A. Any proceedings under this section may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The person bringing the action has the burden of proof to show that the act or omission is unlawful or arbitrary and capricious. [PL 2011, c. 559, Pt. A, §8 (AMD).]

B. The person must bring the action under this subsection within 10 business days after receiving notice of the act or omission in person, by registered mail or by publication of a certificate signed by the superintendent or receiver in a newspaper of general circulation in the county where the financial institution has its principal office. [PL 2009, c. 228, §7 (NEW).]

C. Notwithstanding paragraph B, action may not be brought more than 30 days after the order of the superintendent determining that the business affairs of the receivership are substantially complete and that the receivership is terminated. Upon termination of the receivership, the superintendent is under no obligation to reopen the receivership. [PL 2009, c. 228, §7 (NEW).]

D. The court may issue injunctions to prevent multiplicity of proceedings seeking to annul, alter or modify the actions of the superintendent or receiver made under the provisions of this chapter or to prevent undue interference with the regulation and liquidation of the financial institution. [PL 2009, c. 228, §7 (NEW).]

E. The court, upon application by the superintendent or receiver, has jurisdiction to enforce orders relating to the receivership and the financial institution in receivership. [PL 2009, c. 228, §7 (NEW).]

F. Notwithstanding Title 5, section 8003, the Maine Administrative Procedure Act does not apply to the procedures described in this subsection. [PL 2009, c. 228, §7 (NEW).]

[PL 2011, c. 559, Pt. A, §8 (AMD).]

#### SECTION HISTORY

PL 1991, c. 34, §8 (NEW). PL 2009, c. 228, §7 (RPR). PL 2011, c. 559, Pt. A, §8 (AMD).

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