131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document	**No. 114**
S.P. 53	In Senate, January 9, 2023

An Act to Make Technical Amendments to Banking Laws

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-B MRSA §214, sub-§2, ¶A, as amended by PL 2003, c. 322, §6, is further amended to read:

A. To provide for the balance of the reasonable expenses incurred to fulfill the bureau's duty pursuant to this Title, including general regulatory costs, overhead, transportation and general office and administrative expenses, except as otherwise provided in this paragraph, the superintendent shall assess each financial institution under the superintendent's supervision at the annual rate of at least 6¢ for each $1,000 of the total of average assets, as defined by the superintendent. The frequency of assessment may coincide with the frequency of filing periodic financial reports with the bureau but may not be more frequent than quarterly. The superintendent may raise the minimum assessment rate of 6¢ for each $1,000 of the total of average assets by ~~promulgating~~ adopting rules pursuant to section 251 at such time as economic conditions warrant such an increase. ~~In~~ Except as otherwise provided in this paragraph, in no event may the assessment be less than $25. The superintendent may lower or suspend by rule or order any assessment specified in this paragraph or established by rule pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 9-B MRSA §214, sub-§2-B, as amended by PL 2003, c. 322, §7, is further amended to read:

2-B. Assessment on nondepository trust companies. ~~Nondepository~~ Except as otherwise provided in this subsection, nondepository trust companies that are not affiliated with a financial institution shall pay an assessment at the annual rate of not less than $2,000 or an amount determined by the superintendent of at least 6¢ for every $10,000 of fiduciary assets under its management, custody or care. The superintendent may further define by rule fiduciary assets under management, custody or care or change the minimum assessment whenever economic conditions warrant such a change. The superintendent may lower or suspend by rule or order any assessment specified in this subsection or established by rule pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. These assessments must be paid in accordance with subsection 2, paragraph B.

Sec. 3. 9-B MRSA §252, sub-§2, ¶C, as repealed and replaced by PL 1977, c. 694, §159, is amended to read:

C. The superintendent may suspend or postpone action on an application after the first publication of notice pursuant to paragraph B, upon written request of the applicant or on ~~his~~ the superintendent's own initiative for good cause shown. Good cause includes a judgment by the superintendent that the bureau lacks the present capacity to adequately ensure the safety and soundness of the proposed institution or activity. The superintendent shall promptly provide notice of any suspension or postponement in the same manner and in the same publications in which the original notice of application was provided. If and when action is resumed on the application, the superintendent shall again provide notice in the same manner and in the same publications in which the preceding notices were provided.

Sec. 4. 9-B MRSA §367-A, sub-§6, as enacted by PL 2005, c. 83, §10, is amended to read:

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.

Sec. 5. 9-B MRSA §367-A, sub-§7 is enacted to read:

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.

Sec. 6. 9-B MRSA §1231, as enacted by PL 1997, c. 398, Pt. J, §2, is amended to read:

§1231. General authority and purpose

A financial institution engaged in the business of banking that does not accept retail deposits and for which insurance of deposits by the FDIC is not required may be organized pursuant to chapter 31. Unless otherwise indicated in this chapter, an uninsured bank has all the powers, rights, duties and obligations as a financial institution under this Title. An uninsured bank is not a nondepository trust company or a merchant bank.

SUMMARY

This bill provides the Superintendent of Financial Institutions with the authority to reduce assessments by rule or order. Current law only allows the Bureau of Financial Institutions to raise assessments.

The bill clarifies that the superintendent may suspend or postpone action on an application submitted to the bureau in the event that the bureau has no present capacity to supervise the applicant based on a lack of personnel or tools to adequately supervise certain

emerging business models in a manner that protects the public and ensures the safety and soundness of the institution.

The bill amends the processes for liquidations of financial institutions to provide that, like standard mergers, fiduciary accounts are automatically transferred to the surviving institution in the event of a merger conducted as part of a liquidation, thus removing the need for such accounts to be transferred by court processes or obtaining consent of account beneficiaries.

The bill clarifies that an uninsured bank must be engaged in the business of banking in order to be organized under the laws governing investor-owned institutions.