

§ 1-507.28. Powers and duties of receivers.

(a) Powers; Generally. – Except as otherwise provided in subsection (d) of this section, a receiver, whether general or limited, shall have the following powers in addition to those specifically conferred by this Article or otherwise by statute, rule, or order of the court:

- (1) The power to take possession of, collect, control, manage, conserve, and protect receivership property, including any books and records related thereto with or without the assistance of the sheriff of the county in which the receivership property is located as reasonably necessary.
- (2) The power to incur and pay expenses incidental to the receiver's exercise of the powers or otherwise in the performance of the receiver's duties.
- (3) The power to assert rights, claims, causes of action, or defenses that relate to receivership property.
- (4) The power to seek and obtain instruction from the court with respect to any matter relating to the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.
- (5) In the case of any item of receivership property that because of an applicable exemption is not totally receivership property, the power to take possession of, use, control, manage, or transfer such property pursuant to G.S. 1-507.46.

(b) Additional Powers of a General Receiver. – In addition to the powers provided in subsection (a) of this section, a general receiver shall have the following additional powers:

- (1) The power to assert any rights, claims, causes of action, or defenses of the debtor to the extent any rights, claims, causes of action, or defenses are receivership property, including the right to sue for and collect all debts, demands, and rents constituting receivership property.
- (2) The power to maintain in the receiver's name or in the name of the debtor any action to enforce any right, claim, cause of action, or defense.
- (3) The power to intervene in actions in which the debtor is a party for the purpose of exercising the powers under this clause or requesting transfer of venue of the action to the receivership.
- (4) The power to pursue any claim or remedy that may be asserted by a creditor of the debtor under Article 3A of Chapter 39 of the General Statutes.
- (5) The power to compel any person, including the debtor and any party in interest, by subpoena pursuant to Rule 45 of the North Carolina Rules of Civil Procedure, to give testimony or to produce and permit inspection and copying of designated books, documents, electronically stored information, electronic data, passwords, access codes, or tangible or intangible things with respect to any receivership property or any other matter that may affect the administration of the receivership.
- (6) The power to manage and operate any business constituting receivership property in the ordinary course of business, including the use, sale, lease, license, exchange, collection, and disposition of property of the business or otherwise constituting receivership property, and the incurring and payment of expenses of the business or other receivership property.
- (7) The power to, if authorized by an order of the court following notice and a hearing, compromise or settle claims involving receivership property.
- (8) The power to enter into such contracts as are necessary for the management, security, insuring, or liquidation of receivership property, and to employ, discharge and fix the compensation and conditions for such agents, contractors, and employees as are necessary to assist the receiver in managing, securing, and liquidating receivership property.

- (9) In the case of a general receiver for an entity, the power to file a bankruptcy case under the United States Code, Title 11, and to take all other action in the name of the entity without the necessity of any approval or consent of the members, managers, directors, officers, partners, trustees, or other persons that pursuant to the governance documents of the entity or applicable law would be legally required in the absence of the receiver's appointment to approve or consent to such action.
- (10) The power to exercise all of the powers and authority provided by this section.
- (c) Duties. – A receiver, whether general or limited, shall have the duties specifically conferred by this Article or otherwise by statute, rule, or order of the court, including the following duties:
 - (1) To act in conformity with the laws of this State and the rules and orders of the court.
 - (2) To avoid conflicts of interest.
 - (3) To not directly or indirectly pay or accept anything of value from receivership property that has not been disclosed and approved by the court.
 - (4) To not directly or indirectly purchase, acquire, or accept any interest in receivership property without full disclosure and approval by the court.
 - (5) To otherwise act in the best interests of the receivership and the receivership property.
- (d) Limitation and Modification of Receiver's Powers and Duties. – Except as otherwise provided in this Article, the court may limit or expand the powers and duties of a receiver that are otherwise provided by this Article, including, in the case of a general receiver for an individual, limiting the general receiver's powers and authority to such part of the debtor's receivership property that the court determines will, upon the general receiver's disposition, result in sufficient proceeds to pay allowed claims in full. (2020-75, s. 1.)