

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 730

Introduced by Lautenbaugh, 18.

Read first time January 06, 2010

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to limited liability companies; to amend
2 section 21-2654, Revised Statutes Supplement, 2009; to
3 change provisions relating to charging orders; to repeal
4 the original section; and to declare an emergency.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 21-2654, Revised Statutes Supplement,
2 2009, is amended to read:

3 21-2654 (1) On application to a court of competent
4 jurisdiction by any judgment creditor of a member or transferee,
5 the court may charge the transferable interest of the judgment
6 debtor in the limited liability company with payment of the
7 unsatisfied amount of the judgment with interest. To the extent of
8 the amounts so charged, the judgment creditor has only the rights
9 of the transferee to receive any distribution to which the judgment
10 debtor would otherwise have been entitled with respect to the
11 interest of the judgment debtor in the limited liability company.

12 (2) A charging order entered pursuant to this section
13 constitutes a lien on the judgment debtor's transferable interest
14 in the limited liability company.

15 (3) To the extent necessary to effectuate the collection
16 of distributions pursuant to a charging order in effect under
17 subsection (1) of this section, the court may (a) appoint a
18 receiver of the distribution subject to the charging order, and the
19 receiver shall have the power to make all inquiries the judgment
20 debtor might have made, and (b) make all other orders necessary to
21 give effect to the charging order.

22 (4) Upon a showing that distributions under a charging
23 order will not pay the judgment debt within a reasonable time, the
24 court may foreclose the lien and order the sale of the transferable
25 interest. The purchaser at the foreclosure sale only obtains the

1 transferable interest and does not become a member of the limited
2 liability company.

3 (5) At any time before completion of the foreclosure sale
4 under subsection (4) of this section, the member or transferee
5 whose transferable interest is subject to a charging order under
6 subsection (1) of this section may extinguish the charging order
7 by satisfying the judgment and filing a certified copy of the
8 satisfaction with the court that issued the charging order.

9 (6) At any time before completion of the foreclosure sale
10 under subsection (4) of this section, a limited liability company
11 or one or more members whose transferable interests are not subject
12 to the charging order may pay to the judgment creditor the full
13 amount due under the judgment and thereby succeed to the rights of
14 the judgment creditor, including the charging order.

15 ~~(3)~~ (7) This section does not deprive any member or
16 transferee of the benefit of any exemption laws applicable to the
17 member's or transferee's interest in the limited liability company.

18 ~~(4)~~ (8) The entry of a charging order pursuant to this
19 section is the exclusive remedy by which a judgment creditor of a
20 member or transferee may satisfy a judgment out of the judgment
21 debtor's interest in the limited liability company.

22 ~~(5)~~ (9) No creditor of a member of a limited liability
23 company shall have any right to obtain possession of, or otherwise
24 exercise legal or equitable remedies with respect to, the property
25 of the limited liability company other than the judgment debtor's

1 transferable interest in the limited liability company.

2 ~~(6)~~ (10) A third party shall not be liable to a judgment
3 creditor for distributions made by such third party directly to the
4 judgment debtor that were made in good faith at the direction of
5 the limited liability company.

6 ~~(7)~~ (11) This section applies to all limited liability
7 companies authorized under the Limited Liability Company Act other
8 than a single-member limited liability company.

9 (12) The remedies available to a judgment creditor of a
10 member or transferee of a single-member limited liability company
11 shall not be limited to the charging orders authorized by this
12 section.

13 Sec. 2. Original section 21-2654, Revised Statutes
14 Supplement, 2009, is repealed.

15 Sec. 3. Since an emergency exists, this act takes effect
16 when passed and approved according to law.