

§1573. Charging order

1. Transferable interest of judgment debtor. On application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged and after the limited liability company has been served with the charging order and its terms, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of such transferable interest.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

2. Payment to clerk of court. A limited liability company, after being served with the charging order and its terms, is entitled to pay or deposit any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the charged transferable interest into the hands of the clerk of the court issuing the charging order, and the payment or deposit has the effect of discharging the limited liability company and the judgment debtor from liability for the amount so paid and any interest that might accrue thereon. Upon receipt of the payment, the clerk of the court shall notify the judgment creditor of the receipt of the payment. The judgment creditor shall, after the payment or deposit into the court, petition the court for payment of so much of the amount paid or deposited as is held by the court as may be necessary to pay the judgment creditor's judgment. To the extent the court has excess amounts paid or deposited on hand after the payment to the judgment creditor, the excess amounts paid or deposited must be distributed to the judgment debtor and the charging order must be extinguished. The court may in its discretion order the clerk to deposit, pending the judgment creditor's petition, any money paid or deposited with the clerk in an interest-bearing account at a bank authorized to receive deposits of public funds.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

3. Lien. A charging order constitutes a lien on the judgment debtor's transferable interest. The charging order lien may not be foreclosed upon under this chapter or any other law.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

4. Judgment debtor. Subject to subsection 3:

A. A judgment debtor that is a member retains the rights of a member and remains subject to all duties and obligations of a member; and [PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

B. A judgment debtor that is a transferee retains the rights of a transferee and remains subject to all duties and obligations of a transferee. [PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

5. Exemptions apply. This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

6. No right to property. Subject to the laws against fraudulent conveyances, a judgment creditor of a judgment debtor who is a member or transferee has no right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of a limited liability company.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

7. Exclusive remedy. This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest, and the judgment creditor may not foreclose upon the charging order or the judgment debtor's transferable interest. Court orders for actions or requests for accounts and inquiries that the judgment debtor might have made are not available under this chapter to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's transferable interest and may not be ordered by a court.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

SECTION HISTORY

PL 2009, c. 629, Pt. A, §2 (NEW). PL 2009, c. 629, Pt. A, §3 (AFF).

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