

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB730

Hearing Date: Tuesday February 02, 2010
Committee On: Banking, Commerce and Insurance
Introducer: Lautenbaugh
One Liner: Change provisions relating to charging orders and interests in limited liability companies

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Christensen, Langemeier, McCoy, Pankonin, Pirsch, Utter
Nay:		
Absent:	2	Senators Gloor, Pahls
Present Not Voting:		

Proponents:

Brent Smoyer
Robert Hallstrom

Representing:

Introducer for Senator Scott Lautenbaugh
NE Bankers Association

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 730 (Lautenbaugh) would amend section 21-2654 of the Limited Liability Company Act to provide that a court may appoint a receiver of the distribution subject to a charging order and make all other orders necessary to give effect to the charging order.

The bill would further provide that upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. Before completion of the foreclosure sale, (1) the member or transferee whose transferable interest is subject to the charging order may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court or (2) a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the amount due and thereby succeed to the rights of the judgment creditor, including the charging order.

The bill carries the emergency clause.

Explanation of amendments:

The committee amendments (AM1749) would strike existing and proposed provisions of the bill in order to cause section 21-2654 of the Limited Liability Company Act to more closely reflect the provisions of Section 503 of the Revised Uniform Limited Company Act as promulgated and recommended to the states for adoption by the National Conference of Commissioners on Uniform State Laws in 2006.

The committee amendments would more clearly state that this section provides the exclusive remedy by which a person

seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment debtor's transferable interest.

The committee amendments would eliminate existing provisions regarding third party liability and proposed provisions regarding single-member limited liability companies.

Rich Pahls, Chairperson