

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1121

Introduced by Larson, 40.

Read first time January 18, 2018

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Nebraska Uniform Limited Liability
- 2 Company Act; to amend section 21-101, Reissue Revised Statutes of
- 3 Nebraska; to adopt the Nebraska Uniform Protected Series Act; to
- 4 harmonize provisions; to provide an operative date; and to repeal
- 5 the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 21-101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 21-101 (ULLCA 101) Sections 21-101 to 21-197 and sections 2 to 43 of
4 this act shall be known and may be cited as the Nebraska Uniform Limited
5 Liability Company Act.

6 Sec. 2. Sections 2 to 43 of this act shall be known and may be
7 cited as the Nebraska Uniform Protected Series Act.

8 Sec. 3. In the Nebraska Uniform Protected Series Act:

9 (1) Asset means property:

10 (A) in which a series limited liability company or protected series
11 has rights; or

12 (B) as to which the company or protected series has the power to
13 transfer rights.

14 (2) Associated asset means an asset that meets the requirements of
15 section 16 of this act.

16 (3) Associated member means a member that meets the requirements of
17 section 17 of this act.

18 (4) Foreign protected series means an arrangement, configuration, or
19 other structure established by a foreign limited liability company which
20 has attributes comparable to a protected series established under the
21 act. The term applies whether or not the law under which the foreign
22 company is organized refers to protected series.

23 (5) Foreign series limited liability company means a foreign limited
24 liability company that has at least one foreign protected series.

25 (6) Nonassociated asset means:

26 (A) an asset of a series limited liability company which is not an
27 associated asset of the company; or

28 (B) an asset of a protected series of the company which is not an
29 associated asset of the protected series.

30 (7) Person includes a protected series.

31 (8) Protected series, except in the phrase foreign protected series,

1 means a protected series established under section 10 of this act.

2 (9) Protected-series manager means a person under whose authority
3 the powers of a protected series are exercised and under whose direction
4 the activities and affairs of the protected series are managed under the
5 operating agreement, the Nebraska Uniform Protected Series Act, and the
6 Nebraska Uniform Limited Liability Company Act.

7 (10) Protected-series transferable interest means a right to receive
8 a distribution from a protected series.

9 (11) Protected-series transferee means a person to which all or part
10 of a protected-series transferable interest of a protected series of a
11 series limited liability company has been transferred, other than the
12 company. The term includes a person that owns a protected-series
13 transferable interest as a result of ceasing to be an associated member
14 of a protected series.

15 (12) Series limited liability company, except in the phrase foreign
16 series limited liability company, means a limited liability company that
17 has at least one protected series.

18 Sec. 4. A protected series of a series limited liability company is
19 a person distinct from:

20 (1) the company, subject to subsection (c) of section 5 of this act,
21 subdivision (1) of section 25 of this act, and subsection (d) of section
22 26 of this act;

23 (2) another protected series of the company;

24 (3) a member of the company, whether or not the member is an
25 associated member of the protected series;

26 (4) a protected-series transferee of a protected series of the
27 company; and

28 (5) a transferee of a transferable interest of the company.

29 Sec. 5. (a) A protected series of a series limited liability
30 company has the capacity to sue and be sued in its own name.

31 (b) Except as otherwise provided in subsections (c) and (d) of this

1 section, a protected series of a series limited liability company has the
2 same powers and purposes as the company.

3 (c) A protected series of a series limited liability company ceases
4 to exist not later than when the company completes its winding up.

5 (d) A protected series of a series limited liability company may
6 not:

7 (1) be a member of the company;

8 (2) establish a protected series; or

9 (3) except as permitted by law of this state other than the Nebraska
10 Uniform Protected Series Act, have a purpose or power that the law of
11 this state other than the Nebraska Uniform Protected Series Act prohibits
12 a limited liability company from doing or having.

13 Sec. 6. The law of this state governs:

14 (1) the internal affairs of a protected series of a series limited
15 liability company, including:

16 (A) relations among any associated members of the protected series;

17 (B) relations among the protected series and:

18 (i) any associated member;

19 (ii) the protected-series manager; or

20 (iii) any protected-series transferee;

21 (C) relations between any associated member and:

22 (i) the protected-series manager; or

23 (ii) any protected-series transferee;

24 (D) the rights and duties of a protected-series manager;

25 (E) governance decisions affecting the activities and affairs of the
26 protected series and the conduct of those activities and affairs; and

27 (F) procedures and conditions for becoming an associated member or
28 protected-series transferee;

29 (2) the relations between a protected series of a series limited
30 liability company and each of the following:

31 (A) the company;

1 (B) another protected series of the company;

2 (C) a member of the company which is not an associated member of the
3 protected series;

4 (D) a protected-series manager that is not a protected-series
5 manager of the protected series; and

6 (E) a protected-series transferee that is not a protected-series
7 transferee of the protected series;

8 (3) the liability of a person for a debt, obligation, or other
9 liability of a protected series of a series limited liability company if
10 the debt, obligation, or liability is asserted solely by reason of the
11 person being or acting as:

12 (A) an associated member, protected-series transferee, or protected-
13 series manager of the protected series;

14 (B) a member of the company which is not an associated member of the
15 protected series;

16 (C) a protected-series manager that is not a protected-series
17 manager of the protected series;

18 (D) a protected-series transferee that is not a protected-series
19 transferee of the protected series;

20 (E) a manager of the company; or

21 (F) a transferee of a transferable interest of the company;

22 (4) the liability of a series limited liability company for a debt,
23 obligation, or other liability of a protected series of the company if
24 the debt, obligation, or liability is asserted solely by reason of the
25 company:

26 (A) having delivered to the Secretary of State for filing under
27 subsection (b) of section 10 of this act a protected-series designation
28 pertaining to the protected series or under subsection (d) of section 10
29 of this act or subsection (c) of section 11 of this act a statement of
30 designation change pertaining to the protected series;

31 (B) being or acting as a protected-series manager of the protected

1 series;

2 (C) having the protected series be or act as a manager of the
3 company; or

4 (D) owning a protected-series transferable interest of the protected
5 series; and

6 (5) the liability of a protected series of a series limited
7 liability company for a debt, obligation, or other liability of the
8 company or of another protected series of the company if the debt,
9 obligation, or liability is asserted solely by reason of:

10 (A) the protected series:

11 (i) being a protected series of the company or having as a
12 protected-series manager the company or another protected series of the
13 company; or

14 (ii) being or acting as a protected-series manager of another
15 protected series of the company or a manager of the company; or

16 (B) the company owning a protected-series transferable interest of
17 the protected series.

18 Sec. 7. (a) Except as otherwise provided in this section and
19 subject to sections 8 and 9 of this act, the operating agreement of a
20 series limited liability company governs:

21 (1) the internal affairs of a protected series, including:

22 (A) relations among any associated members of the protected series;

23 (B) relations among the protected series and:

24 (i) any associated member;

25 (ii) the protected-series manager; or

26 (iii) any protected-series transferee;

27 (C) relations between any associated member and:

28 (i) the protected-series manager; or

29 (ii) any protected-series transferee;

30 (D) the rights and duties of a protected-series manager;

31 (E) governance decisions affecting the activities and affairs of the

1 protected series and the conduct of those activities and affairs; and

2 (F) procedures and conditions for becoming an associated member or
3 protected-series transferee;

4 (2) relations among the protected series, the company, and any other
5 protected series of the company;

6 (3) relations between:

7 (A) the protected series, its protected-series manager, any
8 associated member of the protected series, or any protected-series
9 transferee of the protected series; and

10 (B) a person in the person's capacity as:

11 (i) a member of the company which is not an associated member of the
12 protected series;

13 (ii) a protected-series transferee or protected-series manager of
14 another protected series; or

15 (iii) a transferee of the company.

16 (b) If the Nebraska Uniform Limited Liability Company Act restricts
17 the power of an operating agreement to affect a matter, the restriction
18 applies to a matter under the Nebraska Uniform Protected Series Act in
19 accordance with section 9 of this act.

20 (c) If law of this state other than the Nebraska Uniform Protected
21 Series Act imposes a prohibition, limitation, requirement, condition,
22 obligation, liability, or other restriction on a limited liability
23 company, a member, manager, or other agent of the company, or a
24 transferee of the company, except as otherwise provided in law of this
25 state other than the Nebraska Uniform Protected Series Act, the
26 restriction applies in accordance with section 9 of this act.

27 (d) Except as otherwise provided in section 8 of this act, if the
28 operating agreement of a series limited liability company does not
29 provide for a matter described in subsection (a) of this section in a
30 manner permitted by the Nebraska Uniform Protected Series Act, the matter
31 is determined in accordance with the following rules:

1 (1) To the extent the Nebraska Uniform Protected Series Act
2 addresses the matter, the Nebraska Uniform Protected Series Act governs.

3 (2) To the extent the Nebraska Uniform Protected Series Act does not
4 address the matter, the Nebraska Uniform Limited Liability Company Act
5 governs the matter in accordance with section 9 of this act.

6 Sec. 8. (a) An operating agreement may not vary the effect of:

7 (1) this section;

8 (2) section 4 of this act;

9 (3) subsection (a) of section 5 of this act;

10 (4) subsection (b) of section 5 of this act to provide a protected
11 series a power beyond the powers the Nebraska Uniform Limited Liability
12 Company Act provides a limited liability company;

13 (5) subsection (c) or (d) of section 5 of this act;

14 (6) section 6 of this act;

15 (7) section 7 of this act;

16 (8) section 9 of this act;

17 (9) section 10 of this act, except to vary the manner in which a
18 limited liability company approves establishing a protected series;

19 (10) section 11 of this act;

20 (11) section 16 of this act;

21 (12) section 17 of this act;

22 (13) subsection (a) or (b) of section 18 of this act;

23 (14) subsection (c) or (f) of section 19 of this act;

24 (15) section 21 of this act, except to decrease or eliminate a
25 limitation of liability stated in section 21 of this act;

26 (16) section 22 of this act;

27 (17) section 23 of this act;

28 (18) section 24 of this act;

29 (19) subdivisions (1), (4), and (5) of section 25 of this act;

30 (20) section 26 of this act, except to designate a different person
31 to manage winding up;

1 (21) section 27 of this act;

2 (22) sections 28 to 35 of this act;

3 (23) sections 36 to 39 of this act;

4 (24) sections 42 and 43 of this act, except to vary:

5 (A) the manner in which a series limited liability company may elect
6 under subdivision (a)(2) of section 42 of this act to be subject to the
7 Nebraska Uniform Protected Series Act; or

8 (B) the person that has the right to sign and deliver to the
9 Secretary of State for filing a record under subdivision (b)(2) of
10 section 42 of this act; or

11 (25) a provision of the Nebraska Uniform Protected Series Act
12 pertaining to:

13 (A) registered agents; or

14 (B) the Secretary of State, including provisions pertaining to
15 records authorized or required to be delivered to the Secretary of State
16 for filing under the act.

17 (b) An operating agreement may not unreasonably restrict the duties
18 and rights under section 22 of this act but may impose reasonable
19 restrictions on the availability and use of information obtained under
20 section 20 of this act and may provide appropriate remedies, including
21 liquidated damages, for a breach of any reasonable restriction on use.

22 Sec. 9. (a) Except as otherwise provided in subsection (b) of this
23 section and section 8 of this act, the following rules apply in applying
24 section 7 of this act, subsections (c) and (f) of section 19 of this act,
25 subdivision (4)(A) of section 25 of this act, subsection (a) of section
26 26 of this act, and subdivision (2) of section 27 of this act:

27 (1) A protected series of a series limited liability company is
28 deemed to be a limited liability company that is formed separately from
29 the series limited liability company and is distinct from the series
30 limited liability company and any other protected series of the series
31 limited liability company.

1 (2) An associated member of the protected series is deemed to be a
2 member of the company deemed to exist under subdivision (a)(1) of this
3 section.

4 (3) A protected-series transferee of the protected series is deemed
5 to be a transferee of the company deemed to exist under subdivision (a)
6 (1) of this section.

7 (4) A protected-series transferable interest of the protected series
8 is deemed to be a transferable interest of the company deemed to exist
9 under subdivision (a)(1) of this section.

10 (5) A protected-series manager is deemed to be a manager of the
11 company deemed to exist under subdivision (a)(1) of this section.

12 (6) An asset of the protected series is deemed to be an asset of the
13 company deemed to exist under subdivision (a)(1) of this section, whether
14 or not the asset is an associated asset of the protected series.

15 (7) Any creditor or other obligee of the protected series is deemed
16 to be a creditor or obligee of the company deemed to exist under
17 subdivision (a)(1) of this section.

18 (b) Subsection (a) of this section does not apply if its application
19 would:

20 (1) contravene section 21-110; or

21 (2) authorize or require the Secretary of State to:

22 (A) accept for filing a type of record that neither the Nebraska
23 Uniform Protected Series Act nor the Nebraska Uniform Limited Liability
24 Company Act authorizes or requires a person to deliver to the Secretary
25 of State for filing; or

26 (B) make or deliver a record that neither the Nebraska Uniform
27 Protected Series Act nor the Nebraska Uniform Limited Liability Company
28 Act authorizes or requires the Secretary of State to make or deliver.

29 Sec. 10. (a) With the affirmative vote or consent of all members of
30 a limited liability company, the company may establish a protected
31 series.

1 (b) To establish a protected series, a limited liability company
2 shall deliver to the Secretary of State for filing a protected-series
3 designation, signed by the company, stating the name of the company and
4 the name of the protected series to be established.

5 (c) A protected series is established when the protected-series
6 designation takes effect under section 21-121.

7 (d) To amend a protected-series designation, a series limited
8 liability company shall deliver to the Secretary of State for filing a
9 statement of designation change, signed by the company, that changes the
10 name of the company, the name of the protected series to which the
11 designation applies, or both. The change takes effect when the statement
12 of designation change takes effect under section 21-121.

13 Sec. 11. (a) Except as otherwise provided in subsection (b) of this
14 section, the name of a protected series must comply with section 21-108.

15 (b) The name of a protected series of a series limited liability
16 company must:

17 (1) begin with the name of the company, including any word or
18 abbreviation required by section 21-108; and

19 (2) contain the phrase Protected Series or protected series or the
20 abbreviation P.S. or PS.

21 (c) If a series limited liability company changes its name, the
22 company shall deliver to the Secretary of State for filing a statement of
23 designation change for each of the company's protected series, changing
24 the name of each protected series to comply with this section.

25 Sec. 12. (a) The registered agent in this state for a series
26 limited liability company is the registered agent in this state for each
27 protected series of the company.

28 (b) Before delivering a protected-series designation to the
29 Secretary of State for filing, a limited liability company shall agree
30 with a registered agent that the agent will serve as the registered agent
31 in this state for both the company and the protected series.

1 (c) A person that signs a protected-series designation delivered to
2 the Secretary of State for filing affirms as a fact that the limited
3 liability company on whose behalf the designation is delivered has
4 complied with subsection (b) of this section.

5 (d) A person that ceases to be the registered agent for a series
6 limited liability company ceases to be the registered agent for each
7 protected series of the company.

8 (e) A person that ceases to be the registered agent for a protected
9 series of a series limited liability company, other than as a result of
10 the termination of the protected series, ceases to be the registered
11 agent of the company and any other protected series of the company.

12 (f) Except as otherwise agreed by a series limited liability company
13 and its registered agent, the agent is not obligated to distinguish
14 between a process, notice, demand, or other record concerning the company
15 and a process, notice, demand, or other record concerning a protected
16 series of the company.

17 Sec. 13. (a) A protected series of a series limited liability
18 company may be served with a process, notice, demand, or other record
19 required or permitted by law by:

20 (1) serving the company;

21 (2) serving the registered agent of the protected series; or

22 (3) other means authorized by law of this state other than the
23 Nebraska Uniform Limited Liability Company Act.

24 (b) Service of a summons and complaint on a series limited liability
25 company is notice to each protected series of the company of service of
26 the summons and complaint and the contents of the complaint.

27 (c) Service of a summons and complaint on a protected series of a
28 series limited liability company is notice to the company and any other
29 protected series of the company of service of the summons and complaint
30 and the contents of the complaint.

31 (d) Service of a summons and complaint on a foreign series limited

1 liability company is notice to each foreign protected series of the
2 foreign company of service of the summons and complaint and the contents
3 of the complaint.

4 (e) Service of a summons and complaint on a foreign protected series
5 of a foreign series limited liability company is notice to the foreign
6 company and any other foreign protected series of the company of service
7 of the summons and complaint and the contents of the complaint.

8 (f) Notice to a person under subsection (b), (c), (d), or (e) of
9 this section is effective whether or not the summons and complaint
10 identify the person if the summons and complaint name as a party and
11 identify:

12 (1) the series limited liability company or a protected series of
13 the company; or

14 (2) the foreign series limited liability company or a foreign
15 protected series of the foreign company.

16 Sec. 14. (a) On request of any person, the Secretary of State shall
17 issue a certificate of good standing for a protected series of a series
18 limited liability company or a certificate of registration for a foreign
19 protected series if:

20 (1) in the case of a protected series:

21 (A) no statement of dissolution, termination, or relocation
22 pertaining to the protected series has been filed; and

23 (B) the company has delivered to the Secretary of State for filing
24 the most recent biennial report required by section 21-125 and the report
25 includes the name of the protected series, unless:

26 (i) when the company delivered the report for filing, the protected
27 series designation pertaining to the protected series had not yet taken
28 effect; or

29 (ii) after the company delivered the report for filing, the company
30 delivered to the Secretary of State for filing a statement of designation
31 change changing the name of the protected series; or

1 (2) in the case of a foreign protected series, it is registered to
2 do business in this state.

3 (b) A certificate issued under subsection (a) of this section must
4 state:

5 (1) in the case of a protected series:

6 (A) the name of the protected series of the series limited liability
7 company and the name of the company;

8 (B) that the requirements of subsection (a) of this section are met;

9 (C) the date the protected-series designation pertaining to the
10 protected series took effect; and

11 (D) if a statement of designation change pertaining to the protected
12 series has been filed, the effective date and contents of the statement;

13 (2) in the case of a foreign protected series, that it is registered
14 to do business in this state;

15 (3) that the fees, taxes, interest, and penalties owed to this state
16 by the protected series or foreign protected series and collected through
17 the Secretary of State have been paid, if:

18 (A) payment is reflected in the records of the Secretary of State;
19 and

20 (B) nonpayment affects the good standing of the protected series;
21 and

22 (4) other facts reflected in the records of the Secretary of State
23 pertaining to the protected series or foreign protected series which the
24 person requesting the certificate reasonably requests.

25 (c) Subject to any qualification stated by the Secretary of State in
26 a certificate issued under subsection (a) of this section, the
27 certificate may be relied on as conclusive evidence of the facts stated
28 in the certificate.

29 Sec. 15. (a) In the biennial report required by section 21-125, a
30 series limited liability company shall include the name of each protected
31 series of the company:

1 (1) for which the company has previously delivered to the Secretary
2 of State for filing a protected-series designation; and

3 (2) which has not dissolved and completed winding up.

4 (b) A failure by a series limited liability company to comply with
5 subsection (a) of this section with regard to a protected series prevents
6 issuance of a certificate of good standing pertaining to the protected
7 series but does not otherwise affect the protected series.

8 Sec. 16. (a) Only an asset of a protected series may be an
9 associated asset of the protected series. Only an asset of a series
10 limited liability company may be an associated asset of the company.

11 (b) An asset of a protected series of a series limited liability
12 company is an associated asset of the protected series only if the
13 protected series creates and maintains records that state the name of the
14 protected series and describe the asset with sufficient specificity to
15 permit a disinterested, reasonable individual to:

16 (1) identify the asset and distinguish it from any other asset of
17 the protected series, any asset of the company, and any asset of any
18 other protected series of the company;

19 (2) determine when and from what person the protected series
20 acquired the asset or how the asset otherwise became an asset of the
21 protected series; and

22 (3) if the protected series acquired the asset from the company or
23 another protected series of the company, determine any consideration
24 paid, the payor, and the payee.

25 (c) An asset of a series limited liability company is an associated
26 asset of the company only if the company creates and maintains records
27 that state the name of the company and describe the asset with sufficient
28 specificity to permit a disinterested, reasonable individual to:

29 (1) identify the asset and distinguish it from any other asset of
30 the company and any asset of any protected series of the company;

31 (2) determine when and from what person the company acquired the

1 asset or how the asset otherwise became an asset of the company; and

2 (3) if the company acquired the asset from a protected series of the
3 company, determine any consideration paid, the payor, and the payee.

4 (d) The records and recordkeeping required by subsections (b) and
5 (c) of this section may be organized by specific listing, category, type,
6 quantity, or computational or allocational formula or procedure,
7 including a percentage or share of any asset, or in any other reasonable
8 manner.

9 (e) To the extent permitted by this section and law of this state
10 other than the Nebraska Uniform Protected Series Act, a series limited
11 liability company or protected series of the company may hold an
12 associated asset directly or indirectly, through a representative,
13 nominee, or similar arrangement, except that:

14 (1) a protected series may not hold an associated asset in the name
15 of the company or another protected series of the company; and

16 (2) the company may not hold an associated asset in the name of a
17 protected series of the company.

18 Sec. 17. (a) Only a member of a series limited liability company
19 may be an associated member of a protected series of the company.

20 (b) A member of a series limited liability company becomes an
21 associated member of a protected series of the company if the operating
22 agreement or a procedure established by the agreement states:

23 (1) that the member is an associated member of the protected series;

24 (2) the date on which the member became an associated member; and

25 (3) any protected-series transferable interest the associated member
26 has in connection with becoming or being an associated member.

27 (c) If a person that is an associated member of a protected series
28 of a series limited liability company is dissociated from the company,
29 the person ceases to be an associated member of the protected series.

30 Sec. 18. (a) A protected-series transferable interest of a
31 protected series of a series limited liability company must be owned

1 initially by an associated member of the protected series or the company.

2 (b) If a protected series of a series limited liability company has
3 no associated members when established, the company owns the protected-
4 series transferable interests in the protected series.

5 (c) In addition to acquiring a protected series transferable series
6 interest under subsection (b), a series limited liability company may
7 acquire a series transferable interest through a transfer from another
8 person or as provided in the operating agreement.

9 (d) Except for subdivision (a)(3) of section 9 of this act, a
10 provision of the Nebraska Uniform Protected Series Act which applies to a
11 protected-series transferee of a protected series of a series limited
12 liability company applies to the company in its capacity as an owner of a
13 protected-series transferable interest of the protected series. A
14 provision of the operating agreement of a series limited liability
15 company which applies to a protected-series transferee of a protected
16 series of the company applies to the company in its capacity as an owner
17 of a protected-series transferable interest of the protected series.

18 Sec. 19. (a) A protected series may have more than one protected-
19 series manager.

20 (b) If a protected series has no associated members, the series
21 limited liability company is the protected-series manager.

22 (c) Section 9 of this act applies to determine any duties of a
23 protected-series manager of a protected series of a series limited
24 liability company to:

25 (1) the protected series;

26 (2) any associated member of the protected series; and

27 (3) any protected-series transferee of the protected series.

28 (d) Solely by reason of being or acting as a protected-series
29 manager of a protected series of a series limited liability company, a
30 person owes no duty to:

31 (1) the company;

1 (2) another protected series of the company; or

2 (3) another person in that person's capacity as:

3 (A) a member of the company which is not an associated member of the
4 protected series;

5 (B) a protected-series transferee or protected-series manager of
6 another protected series; or

7 (C) a transferee of the company.

8 (e) An associated member of a protected series of a series limited
9 liability company has the same rights as any other member of the company
10 to vote on or consent to an amendment to the company's operating
11 agreement or any other matter being decided by the members, whether or
12 not the amendment or matter affects the interests of the protected series
13 or the associated member.

14 (f) Sections 21-164 to 21-169 apply to a protected series in
15 accordance with section 9 of this act.

16 Sec. 20. (a) A member of a series limited liability company which
17 is not an associated member of a protected series of the company has a
18 right to information concerning the protected series to the same extent,
19 in the same manner, and under the same conditions that a member that is
20 not a manager of a manager-managed limited liability company has a right
21 to information concerning the company under section 21-139.

22 (b) A person formerly an associated member of a protected series has
23 a right to information concerning the protected series to the same
24 extent, in the same manner, and under the same conditions that a person
25 dissociated as a member of a manager-managed limited liability company
26 has a right to information concerning the company under section 21-139.

27 (c) If an associated member of a protected series dies, the legal
28 representative of the deceased associated member has a right to
29 information concerning the protected series to the same extent, in the
30 same manner, and under the same conditions that the legal representative
31 of a deceased member of a limited liability company has a right to

1 information concerning the company under section 21-139.

2 (d) A protected-series manager of a protected series has a right to
3 information concerning the protected series to the same extent, in the
4 same manner, and under the same conditions that a manager of a manager-
5 managed limited liability company has a right to information concerning
6 the company under section 21-139.

7 Sec. 21. (a) A person is not liable, directly or indirectly, by way
8 of contribution or otherwise, for a debt, obligation, or other liability
9 of:

10 (1) a protected series of a series limited liability company solely
11 by reason of being or acting as:

12 (A) an associated member, series manager, or protected-series
13 transferee of the protected series; or

14 (B) a member, manager, or a transferee of the company; or

15 (2) a series limited liability company solely by reason of being or
16 acting as an associated member, protected-series manager, or protected-
17 series transferee of a protected series of the company.

18 (b) Subject to section 24 of this act, the following rules apply:

19 (1) A debt, obligation, or other liability of a series limited
20 liability company is solely the debt, obligation, or liability of the
21 company.

22 (2) A debt, obligation, or other liability of a protected series is
23 solely the debt, obligation, or liability of the protected series.

24 (3) A series limited liability company is not liable, directly or
25 indirectly, by way of contribution or otherwise, for a debt, obligation,
26 or other liability of a protected series of the company solely by reason
27 of the protected series being a protected series of the company or the
28 company:

29 (A) being or acting as a protected-series manager of the protected
30 series;

31 (B) having the protected series manage the company; or

1 (C) owning a protected-series transferable interest of the protected
2 series.

3 (4) A protected series of a series limited liability company is not
4 liable, directly or indirectly, by way of contribution or otherwise, for
5 a debt, obligation, or other liability of the company or another
6 protected series of the company solely by reason of:

7 (A) being a protected series of the company;

8 (B) being or acting as a manager of the company or a protected-
9 series manager of another protected series of the company; or

10 (C) having the company or another protected series of the company be
11 or act as a protected-series manager of the protected series.

12 Sec. 22. (a) Except as otherwise provided in subsection (b) of this
13 section, a claim seeking to disregard a limitation in section 21 of this
14 act is governed by the principles of law and equity, including a
15 principle providing a right to a creditor or holding a person liable for
16 a debt, obligation, or other liability of another person, which would
17 apply if each protected series of a series limited liability company were
18 a limited liability company formed separately from the series limited
19 liability company and distinct from the series limited liability company
20 and any other protected series of the series limited liability company.

21 (b) The failure of a limited liability company or a protected series
22 to observe formalities relating to the exercise of its powers or
23 management of its activities and affairs is not a ground to disregard a
24 limitation in subsection (a) of section 21 of this act but may be a
25 ground to disregard a limitation in subsection (b) of section 21 of this
26 act.

27 (c) This section applies to a claim seeking to disregard a
28 limitation of liability applicable to a foreign series limited liability
29 company or foreign protected series and comparable to a limitation stated
30 in section 21 of this act, if:

31 (1) the claimant is a resident of this state or doing business or

1 registered to do business in this state; or

2 (2) the claim is to establish or enforce a liability arising under
3 law of this state other than the Nebraska Uniform Protected Series Act or
4 from an act or omission in this state.

5 Sec. 23. Sections 21-140 to 21-143 apply to a judgment creditor of:

6 (1) an associated member or protected-series transferee of a
7 protected series; or

8 (2) a series limited liability company, to the extent the company
9 owns a protected-series transferable interest of a protected series.

10 Sec. 24. (a) In this section:

11 (1) Enforcement date means 12:01 a.m. on the date on which a
12 claimant first serves process on a series limited liability company or
13 protected series in an action seeking to enforce under this section a
14 claim against an asset of the company or protected series by attachment,
15 levy, or the like.

16 (2) Subject to subsection (b) of section 35 of this act, incurrence
17 date means the date on which a series limited liability company or
18 protected series incurred the liability giving rise to a claim that a
19 claimant seeks to enforce under this section.

20 (b) If a claim against a series limited liability company or a
21 protected series of the company has been reduced to judgment, in addition
22 to any other remedy provided by law or equity, the judgment may be
23 enforced in accordance with the following rules:

24 (1) A judgment against the company may be enforced against an asset
25 of a protected series of the company if the asset:

26 (A) was a nonassociated asset of the protected series on the
27 incurrence date; or

28 (B) is a nonassociated asset of the protected series on the
29 enforcement date.

30 (2) A judgment against a protected series may be enforced against an
31 asset of the company if the asset:

1 (A) was a nonassociated asset of the company on the incurrence date;
2 or

3 (B) is a nonassociated asset of the company on the enforcement date.

4 (3) A judgment against a protected series may be enforced against an
5 asset of another protected series of the company if the asset:

6 (A) was a nonassociated asset of the other protected series on the
7 incurrence date; or

8 (B) is a nonassociated asset of the other protected series on the
9 enforcement date.

10 (c) In addition to any other remedy provided by law or equity, if a
11 claim against a series limited liability company or a protected series
12 has not been reduced to a judgment and law other than the Nebraska
13 Uniform Protected Series Act permits a prejudgment remedy by attachment,
14 levy, or the like, the court may apply subsection (b) of this section as
15 a prejudgment remedy.

16 (d) In a proceeding under this section, the party asserting that an
17 asset is or was an associated asset of a series limited liability company
18 or a protected series of the company has the burden of proof on the
19 issue.

20 (e) This section applies to an asset of a foreign series limited
21 liability company or foreign protected series if:

22 (1) the asset is real or tangible property located in this state;

23 (2) the claimant is a resident of this state or doing business or
24 registered to do business in this state, or the claim under this section
25 is to enforce a judgment, or to seek a prejudgment remedy, pertaining to
26 a liability arising from law of this state other than the Nebraska
27 Uniform Protected Series Act or an act or omission in this state; and

28 (3) the asset is not identified in the records of the foreign series
29 limited liability company or foreign protected series in a manner
30 comparable to the manner required by section 16 of this act.

31 Sec. 25. A protected series of a series limited liability company

1 is dissolved, and its activities and affairs must be wound up, only on
2 the:

3 (1) dissolution of the company;

4 (2) occurrence of an event or circumstance the operating agreement
5 states causes dissolution of the protected series;

6 (3) affirmative vote or consent of all members; or

7 (4) entry by the court of an order dissolving the protected series
8 on application by an associated member or protected-series manager of the
9 protected series:

10 (A) in accordance with section 9 of this act; and

11 (B) to the same extent, in the same manner, and on the same grounds
12 the court would enter an order dissolving a limited liability company on
13 application by a member or manager of the company; or

14 (5) entry by the court of an order dissolving the protected series
15 on application by the company or a member of the company on the ground
16 that the conduct of all or substantially all the activities and affairs
17 of the protected series is illegal.

18 Sec. 26. (a) Subject to subsections (b) and (c) of this section and
19 in accordance with section 9 of this act:

20 (1) a dissolved protected series shall wind up its activities and
21 affairs in the same manner that a limited liability company winds up its
22 activities and affairs under sections 21-147 to 21-154, subject to the
23 same requirements and conditions and with the same effects; and

24 (2) judicial supervision or another judicial remedy is available in
25 the winding up of the protected series to the same extent, in the same
26 manner, under the same conditions, and with the same effects that apply
27 under subsection (e) of section 21-148.

28 (b) When a protected series of a series limited liability company
29 dissolves, the company may deliver to the Secretary of State for filing a
30 statement of protected-series dissolution stating the name of the company
31 and the protected series and that the protected series is dissolved. The

1 filing of the statement by the Secretary of State has the same effect as
2 the filing by the Secretary of State of a statement of dissolution under
3 subdivision (d)(2)(A) of section 21-103.

4 (c) When a protected series of a series limited liability company
5 has completed winding up, the company may deliver to the Secretary of
6 State for filing a statement of designation cancellation stating the name
7 of the company and the protected series and that the protected series is
8 terminated. The filing of the statement by the Secretary of State has the
9 same effect as the filing by the Secretary of State of a statement of
10 termination under subdivision (d)(2)(B) of section 21-103.

11 (d) A series limited liability company has not completed its winding
12 up until each of the protected series of the company has completed its
13 winding up.

14 Sec. 27. If a series limited liability company that has been
15 administratively dissolved is reinstated, or a series limited liability
16 company that voluntarily dissolved rescinds its dissolution:

- 17 (1) each protected series of the company ceases winding up; and
18 (2) sections 21-152 and 21-153 apply to each protected series of the
19 company in accordance with section 9 of this act.

20 Sec. 28. In sections 28 to 35 of this act:

21 (1) After a merger or after the merger means when a merger under
22 section 31 of this act becomes effective and afterwards.

23 (2) Before a merger or before the merger means before a merger under
24 section 31 of this act becomes effective.

25 (3) Continuing protected series means a protected series of a
26 surviving company which continues in uninterrupted existence after a
27 merger under section 31 of this act.

28 (4) Merging company means a limited liability company that is party
29 to a merger under section 31 of this act.

30 (5) Nonsurviving company means a merging company that does not
31 continue in existence after a merger under section 31 of this act.

1 (6) Relocated protected series means a protected series of a
2 nonsurviving company which, after a merger under section 31 of this act,
3 continues in uninterrupted existence as a protected series of the
4 surviving company.

5 (7) Surviving company means a merging company that continues in
6 existence after a merger under section 31 of this act.

7 Sec. 29. A protected series may not:

8 (1) be an acquiring, acquired, converting, converted, merging, or
9 surviving entity;

10 (2) participate in a domestication; or

11 (3) be a party to or be formed, organized, established, or created
12 in a transaction substantially like a merger, interest exchange,
13 conversion, or domestication.

14 Sec. 30. A series limited liability company may not be:

15 (1) an acquiring, acquired, converting, converted, domesticating, or
16 domesticated entity; or

17 (2) except as otherwise provided in section 31 of this act, a party
18 to or the surviving company of a merger.

19 Sec. 31. A series limited liability company may be party to a
20 merger in accordance with sections 21-171 to 21-174, this section, and
21 sections 32 to 35 of this act only if:

22 (1) each other party to the merger is a limited liability company;
23 and

24 (2) the surviving company is not created in the merger.

25 Sec. 32. In a merger under section 31 of this act, the plan of
26 merger must:

27 (1) comply with sections 21-171 to 21-174; and

28 (2) state in a record:

29 (A) for any protected series of a nonsurviving company, whether
30 after the merger the protected series will be a relocated protected
31 series or be dissolved, wound up, and terminated;

1 (B) for any protected series of the surviving company which exists
2 before the merger, whether after the merger the protected series will be
3 a continuing protected series or be dissolved, wound up, and terminated;

4 (C) for each relocated protected series or continuing protected
5 series:

6 (i) the name of any person that becomes an associated member or
7 protected-series transferee of the protected series after the merger, any
8 consideration to be paid by, on behalf of, or in respect of the person,
9 the name of the payor, and the name of the payee;

10 (ii) the name of any person whose rights or obligations in the
11 person's capacity as an associated member or protected-series transferee
12 will change after the merger;

13 (iii) any consideration to be paid to a person who before the merger
14 was an associated member or protected-series transferee of the protected
15 series and the name of the payor; and

16 (iv) if after the merger the protected series will be a relocated
17 protected series, its new name;

18 (D) for any protected series to be established by the surviving
19 company as a result of the merger:

20 (i) the name of the protected series;

21 (ii) any protected-series transferable interest to be owned by the
22 surviving company when the protected series is established; and

23 (iii) the name of and any protected-series transferable interest
24 owned by any person that will be an associated member of the protected
25 series when the protected series is established; and

26 (E) for any person that is an associated member of a relocated
27 protected series and will remain a member after the merger, any amendment
28 to the operating agreement of the surviving company which:

29 (1) is or is proposed to be in a record; and

30 (2) is necessary or appropriate to state the rights and obligations
31 of the person as a member of the surviving company.

1 Sec. 33. In a merger under section 31 of this act, the statement of
2 merger must:

3 (1) comply with sections 21-171 to 21-174; and

4 (2) include as an attachment the following records, each to become
5 effective when the merger becomes effective:

6 (A) for a protected series of a merging company being terminated as
7 a result of the merger, a statement of termination signed by the company;

8 (B) for a protected series of a nonsurviving company which after the
9 merger will be a relocated protected series:

10 (i) a statement of relocation signed by the nonsurviving company
11 which contains the name of the company and the name of the protected
12 series before and after the merger; and

13 (ii) a statement of protected-series designation signed by the
14 surviving company; and

15 (C) for a protected series being established by the surviving
16 company as a result of the merger, a statement of designation signed by
17 the company.

18 Sec. 34. When a merger under section 31 of this act becomes
19 effective, in addition to the effects stated in sections 21-171 to
20 21-174:

21 (1) as provided in the plan of merger, each protected series of each
22 merging company which was established before the merger:

23 (A) is a relocated protected series or continuing protected series;
24 or

25 (B) is dissolved, wound up, and terminated;

26 (2) any protected series to be established as a result of the merger
27 is established;

28 (3) any relocated protected series or continuing protected series is
29 the same person without interruption as it was before the merger;

30 (4) all property of a relocated protected series or continuing
31 protected series continues to be vested in the protected series without

1 transfer, reversion, or impairment;

2 (5) all debts, obligations, and other liabilities of a relocated
3 protected series or continuing protected series continue as debts,
4 obligations, and other liabilities of the protected series;

5 (6) except as otherwise provided by law or the plan of merger, all
6 the rights, privileges, immunities, powers, and purposes of a relocated
7 protected series or continuing protected series remain in the protected
8 series;

9 (7) the new name of a relocated protected series may be substituted
10 for the former name of the protected series in any pending action or
11 proceeding;

12 (8) if provided in the plan of merger:

13 (A) a person becomes an associated member or protected-series
14 transferee of a relocated protected series or continuing protected
15 series;

16 (B) a person becomes an associated member of a protected series
17 established by the surviving company as a result of the merger;

18 (C) any change in the rights or obligations of a person in the
19 person's capacity as an associated member or protected-series transferee
20 of a relocated protected series or continuing protected series take
21 effect; and

22 (D) any consideration to be paid to a person that before the merger
23 was an associated member or protected-series transferee of a relocated
24 protected series or continuing protected series is due; and

25 (9) any person that is a member of a relocated protected series
26 becomes a member of the surviving company, if not already a member.

27 Sec. 35. (a) A creditor's right that existed under section 24 of
28 this act immediately before a merger under section 31 of this act may be
29 enforced after the merger in accordance with the following rules:

30 (1) A creditor's right that existed immediately before the merger
31 against the surviving company, a continuing protected series, or a

1 relocated protected series continues without change after the merger.

2 (2) A creditor's right that existed immediately before the merger
3 against a nonsurviving company:

4 (A) may be asserted against an asset of the nonsurviving company
5 which vested in the surviving company as a result of the merger; and

6 (B) does not otherwise change.

7 (3) Subject to subsection (b) of this section, the following rules
8 apply:

9 (A) In addition to the remedy stated in subdivision (a)(1) of this
10 section, a creditor with a right under section 24 of this act which
11 existed immediately before the merger against a nonsurviving company or a
12 relocated protected series may assert the right against:

13 (i) an asset of the surviving company, other than an asset of the
14 nonsurviving company which vested in the surviving company as a result of
15 the merger;

16 (ii) an asset of a continuing protected series; or

17 (iii) an asset of a protected series established by the surviving
18 company as a result of the merger;

19 (iv) if the creditor's right was against an asset of the
20 nonsurviving company, an asset of a relocated series; or

21 (v) if the creditor's right was against an asset of a relocated
22 protected series, an asset of another relocated protected series.

23 (B) In addition to the remedy stated in subdivision (a)(2) of this
24 section, a creditor with a right that existed immediately before the
25 merger against the surviving company or a continuing protected series may
26 assert the right against:

27 (i) an asset of a relocated protected series; or

28 (ii) an asset of a nonsurviving company which vested in the
29 surviving company as a result of the merger.

30 (b) For the purposes of subdivision (a)(3) of this section and
31 subdivisions (b)(1)(A), (b)(2)(A), and (b)(3)(A) of section 24 of this

1 act, the incurrence date is deemed be the date on which the merger
2 becomes effective.

3 (c) A merger under section 31 of this act does not affect the manner
4 in which section 24 of this act applies to a liability incurred after the
5 merger.

6 Sec. 36. The law of the jurisdiction of formation of a foreign
7 series limited liability company governs:

8 (1) the internal affairs of a foreign protected series of the
9 company, including:

10 (A) relations among any associated members of the foreign protected
11 series;

12 (B) relations between the foreign protected series and:

13 (i) any associated member;

14 (ii) the protected-series manager; or

15 (iii) any protected-series transferee;

16 (C) relations between any associated member and:

17 (i) the protected-series manager; or

18 (ii) any protected-series transferee;

19 (D) the rights and duties of a protected-series manager;

20 (E) governance decisions affecting the activities and affairs of the
21 foreign protected series and the conduct of those activities and affairs;

22 and

23 (F) procedures and conditions for becoming an associated member or
24 protected-series transferee;

25 (2) relations between the foreign protected series and:

26 (A) the company;

27 (B) another foreign protected series of the company;

28 (C) a member of the company which is not an associated member of the
29 foreign protected series;

30 (D) a foreign protected-series manager that is not a protected-
31 series manager of the protected series;

1 (E) a foreign protected-series transferee that is not a foreign
2 protected-series transferee of the protected series; and

3 (F) a transferee of a transferable interest of the company;

4 (3) except as otherwise provided in sections 22 and 24 of this act,
5 the liability of a person for a debt, obligation, or other liability of a
6 foreign protected series of a foreign series limited liability company if
7 the debt, obligation, or liability is asserted solely by reason of the
8 person being or acting as:

9 (A) an associated member, protected-series transferee, or protected-
10 series manager of the foreign protected series;

11 (B) a member of the company which is not an associated member of the
12 foreign protected series;

13 (C) a protected-series manager of another foreign protected series
14 of the company;

15 (D) a protected-series transferee of another foreign protected
16 series of the company;

17 (E) a manager of the company; or

18 (F) a transferee of a transferable interest of the company; and

19 (4) except as otherwise provided in sections 22 and 24 of this act:

20 (A) the liability of the foreign series limited liability company
21 for a debt, obligation, or other liability of a foreign protected series
22 of the company if the debt, obligation, or liability is asserted solely
23 by reason of the foreign protected series being a foreign protected
24 series of the company or the company:

25 (i) being or acting as a foreign protected-series manager of the
26 foreign protected series;

27 (ii) having the foreign protected series manage the company; or

28 (iii) owning a protected-series transferable interest of the foreign
29 protected series; and

30 (B) the liability of a foreign protected series for a debt,
31 obligation, or other liability of the company or another foreign

1 protected series of the company if the debt, obligation, or liability is
2 asserted solely by reason of the foreign protected series:

3 (i) being a foreign protected series of the company or having the
4 company or another foreign protected series of the company be or act as
5 foreign protected-series manager of the foreign protected series; or

6 (ii) managing the company or being or acting as a foreign protected-
7 series manager of another foreign protected series of the company.

8 Sec. 37. In determining whether a foreign series limited liability
9 company or foreign protected series of the company does business in this
10 state or is subject to the personal jurisdiction of the courts of this
11 state:

12 (1) the activities and affairs of the company are not attributable
13 to a foreign protected series of the company solely by reason of the
14 foreign protected series being a foreign protected series of the company;
15 and

16 (2) the activities and affairs of a foreign protected series are not
17 attributable to the company or another foreign protected series of the
18 company solely by reason of the foreign protected series being a foreign
19 protected series of the company.

20 Sec. 38. (a) Except as otherwise provided in this section and
21 subject to sections 22 and 24 of this act, the law of this state
22 governing the registration of a foreign limited liability company to do
23 business in this state, including the consequences of not complying with
24 that law, applies to a foreign protected series of a foreign series
25 limited liability company as if the foreign protected series were a
26 foreign limited liability company formed separately from the foreign
27 series limited liability company and distinct from the foreign series
28 limited liability company and any other foreign protected series of the
29 foreign series limited liability company.

30 (b) An application by a foreign protected series of a foreign series
31 limited liability company for registration to do business in this state

1 must include:

2 (1) the name and jurisdiction of formation of the foreign series
3 limited liability company; and

4 (2) if the company has other foreign protected series, the name and
5 street and mailing address of an individual who knows the name and street
6 and mailing address of:

7 (A) each other foreign protected series of the foreign series
8 limited liability company; and

9 (B) the foreign protected-series manager of and agent for service of
10 process for each other foreign protected series of the foreign series
11 limited liability company.

12 (c) The name of a foreign protected series applying for registration
13 or registered to do business in this state must comply with section 11 of
14 this act and may do so using subdivision (b)(2) of section 21-108, if the
15 fictitious name complies with section 11 of this act.

16 (d) The requirement in subdivision (a)(5) and subsection (c) of
17 section 21-114, subsection (e) of section 21-118, section 21-122,
18 subsection (d) of section 21-125, and section 21-173 to amend a statement
19 of registration to update information applies to the information required
20 by subsection (b) of this section.

21 Sec. 39. (a) Not later than thirty days after becoming a party to a
22 proceeding before a civil, administrative, or other adjudicative tribunal
23 of or located in this state or a tribunal of the United States located in
24 this state:

25 (1) a foreign series limited liability company shall disclose to
26 each other party the name and street and mailing address of:

27 (A) each foreign protected series of the company; and

28 (B) each foreign protected-series manager of and a registered agent
29 for service of process for each foreign protected series of the company;
30 and

31 (2) a foreign protected series of a foreign series limited liability

1 company shall disclose to each other party the name and street and
2 mailing address of:

3 (A) the company and each manager of the company and an agent for
4 service of process for the company; and

5 (B) any other foreign protected series of the company and each
6 foreign protected-series manager of and an agent for service of process
7 for the other foreign protected series.

8 (b) If a foreign series limited liability company or foreign
9 protected series challenges the personal jurisdiction of the tribunal,
10 the requirement that the foreign company or foreign protected series make
11 disclosure under subsection (a) of this section is tolled until the
12 tribunal determines whether it has personal jurisdiction.

13 (c) If a foreign series limited liability company or foreign
14 protected series does not comply with subsection (a) of this section, a
15 party to the proceeding may:

16 (1) request the tribunal to treat the noncompliance as a failure to
17 comply with the tribunal's discovery rules; or

18 (2) bring a separate proceeding in the court to enforce subsection
19 (a) of this section.

20 Sec. 40. In applying and construing the Uniform Protected Series
21 Act, consideration must be given to the need to promote uniformity of the
22 law with respect to its subject matter among states that enact it.

23 Sec. 41. The Uniform Protected Series Act modifies, limits, or
24 supersedes the Electronic Signatures in Global and National Commerce Act,
25 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede section
26 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery
27 of any of the notices described in section 103(b) of that act, 15 U.S.C.
28 7003(b).

29 Sec. 42. (a) Before January 1, 2020, the Uniform Protected Series
30 Act governs only:

31 (1) a series limited liability company formed, or a protected series

1 established, on or after the effective date of this act; and

2 (2) a limited liability company that is a series limited liability
3 company before the effective date of this act and elects, in the manner
4 provided in its operating agreement or by law for amending the operating
5 agreement, to be subject to the act.

6 (b) If a series limited liability company elects under subsection
7 (a)(2) of this act to be subject to the act:

8 (1) the election applies to each protected series of the company,
9 whenever established; and

10 (2) a manager of the company has the right to sign and deliver to
11 the Secretary of State for filing any record necessary to comply with the
12 act, whether the record pertains to the company, a protected series of
13 the company, or both.

14 (c) On and after January 1, 2020, the act governs all series limited
15 liability companies and protected series.

16 (d) Until one year after January 1, 2020, sections 22 and 24 of this
17 act do not apply to a foreign protected series that was established
18 before the effective date of this act or a foreign limited liability
19 company that became a foreign series limited liability company before the
20 effective date of this act.

21 Sec. 43. The Uniform Protected Series Act does not affect an action
22 commenced, proceeding brought, or right accrued before the effective date
23 of this act.

24 Sec. 44. This act becomes operative on January 1, 2019.

25 Sec. 45. If any section in this act or any part of any section is
26 declared invalid or unconstitutional, the declaration shall not affect
27 the validity or constitutionality of the remaining portions.

28 Sec. 46. Original section 21-101, Reissue Revised Statutes of
29 Nebraska, is repealed.