

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: H2/9/23

# A Bill

HOUSE BILL 1020

5 By: Representative Maddox  
6 By: Senator Hill  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE UNIFORM LIMITED LIABILITY COMPANY  
10 ACT; TO REVISE CHARGING ORDERS UNDER THE UNIFORM  
11 LIMITED LIABILITY COMPANY ACT; AND FOR OTHER  
12 PURPOSES.  
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## Subtitle

15 TO AMEND THE UNIFORM LIMITED LIABILITY  
16 COMPANY ACT; AND TO REVISE CHARGING  
17 ORDERS UNDER THE UNIFORM LIMITED  
18 LIABILITY COMPANY ACT.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 4-38-107(b), concerning the obligations of  
25 a limited liability company to third parties under the Uniform Limited  
26 Liability Company Act, is amended to read as follows:

27 (b) The obligations of a limited liability company and its members to  
28 a person in the person's capacity as a transferee or a person dissociated as  
29 a member are governed by the operating agreement. ~~Subject only to a court~~  
30 ~~order issued under § 4-38-503(b)(2) to effectuate a charging order, an An~~  
31 amendment to the operating agreement made after a person becomes a transferee  
32 or is dissociated as a member:

33 (1) is effective with regard to any debt, obligation, or other  
34 liability of the limited liability company or its members to the person in  
35 the person's capacity as a transferee or person dissociated as a member; and

36 (2) is not effective to the extent the amendment imposes a new



1 debt, obligation, or other liability on the transferee or person dissociated  
2 as a member.

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4 SECTION 2. Arkansas Code § 4-38-502(a), concerning the transfer of  
5 transferable interest under the Uniform Limited Liability Company Act, is  
6 amended to read as follows:

7 (a) ~~Subject to § 4-38-503(f), a~~ A transfer, in whole or in part, of a  
8 transferable interest:

9 (1) is permissible;

10 (2) does not by itself cause a person's dissociation as a member  
11 or a dissolution and winding up of the limited liability company's activities  
12 and affairs; and

13 (3) subject to § 4-38-504, does not entitle the transferee to:

14 (A) participate in the management or conduct of the  
15 company's activities and affairs; or

16 (B) except as otherwise provided in subsection (c), have  
17 access to records or other information concerning the company's activities  
18 and affairs.

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20 SECTION 3. Arkansas Code § 4-38-502(g), concerning the rights of a  
21 transferor of a transferable interest under the Uniform Limited Liability  
22 Company Act, is amended to read as follows:

23 (g) ~~Except as otherwise provided in § 4-38-602(5)(B), if~~ If a member  
24 transfers a transferable interest, the transferor retains the rights of a  
25 member other than the transferable interest transferred and retains all the  
26 duties and obligations of a member.

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28 SECTION 4. Arkansas Code § 4-38-503 is amended to read as follows:

29 4-38-503. Charging order.

30 (a) On application to a court of competent jurisdiction by a judgment  
31 creditor of a member ~~or transferee, a~~ the court may ~~enter a charging order~~  
32 ~~against the transferable interest of the judgment debtor for~~ charge the  
33 member's interest with payment of the unsatisfied amount of the judgment with  
34 interest. ~~Except as otherwise provided in subsection (f), a charging order~~  
35 ~~constitutes a lien on a judgment debtor's transferable interest and requires~~  
36 ~~the limited liability company to pay over to the person to which the charging~~

1 ~~order was issued any distribution that otherwise would be paid to the~~  
2 ~~judgment debtor~~ To the extent so charged, the judgment creditor has only the  
3 rights of an assignee of the member's interest.

4 (b) ~~To the extent necessary to effectuate the collection of~~  
5 ~~distributions pursuant to a charging order in effect under subsection (a),~~  
6 ~~the court may:~~

7 (1) ~~appoint a receiver of the distributions subject to the~~  
8 ~~charging order, with the power to make all inquiries the judgment debtor~~  
9 ~~might have made; and~~

10 (2) ~~make all other orders necessary to give effect to the~~  
11 ~~charging order.~~

12 (c) ~~Upon a showing that distributions under a charging order will not~~  
13 ~~pay the judgment debt within a reasonable time, the court may foreclose the~~  
14 ~~lien and order the sale of the transferable interest. Except as otherwise~~  
15 ~~provided in subsection (f), the purchaser at the foreclosure sale obtains~~  
16 ~~only the transferable interest, does not thereby become a member, and is~~  
17 ~~subject to § 4-38-502.~~

18 (d) ~~At any time before foreclosure under subsection (c), the member or~~  
19 ~~transferee whose transferable interest is subject to a charging order under~~  
20 ~~subsection (a) may extinguish the charging order by satisfying the judgment~~  
21 ~~and filing a certified copy of the satisfaction with the court that issued~~  
22 ~~the charging order.~~

23 (e) ~~At any time before foreclosure under subsection (c), a limited~~  
24 ~~liability company or one or more members whose transferable interests are not~~  
25 ~~subject to the charging order may pay to the judgment creditor the full~~  
26 ~~amount due under the judgment and thereby succeed to the rights of the~~  
27 ~~judgment creditor, including the charging order.~~

28 (f) ~~If a court orders foreclosure of a charging order lien against the~~  
29 ~~sole member of a limited liability company:~~

30 (1) ~~the court shall confirm the sale;~~

31 (2) ~~the purchaser at the sale obtains the member's entire~~  
32 ~~interest, not only the member's transferable interest;~~

33 (3) ~~the purchaser thereby becomes a member; and~~

34 (4) ~~the person whose interest was subject to the foreclosed~~  
35 ~~charging order is dissociated as a member.~~

36 (g) ~~This chapter does not deprive any member or transferee of the~~

1 ~~benefit of any exemption law applicable to the transferable interest of the~~  
2 ~~member or transferee.~~

3 ~~(h)~~ This section:

4 ~~(1)(A) provides~~ Provides the exclusive remedy by which a ~~person~~  
5 ~~seeking in the capacity of judgment creditor of a member or an assignee of a~~  
6 ~~member to enforce a judgment against a member or transferee~~ may satisfy ~~the a~~  
7 ~~judgment from the judgment debtor's transferable interest~~ out of the member's  
8 interest of the judgment debtor, whether or not the limited liability company  
9 has one (1) member or more than one (1) member.

10 (B)(i) Other remedies, including without limitation  
11 foreclosure on the member's interest or a court order for directions,  
12 accounts, and inquiries that the debtor or member might have made, are not  
13 available to the judgment creditor attempting to satisfy the judgment out of  
14 the judgment debtor's interest in the limited liability company.

15 (ii) A court shall not order any other remedy;

16 (2) Does not deprive a member of the benefit of any exemption  
17 applicable to his or her interest; and

18 (3) Does not supersede any written agreement between a member  
19 and a creditor if the written agreement does not conflict with the limited  
20 liability company's certificate of organization or operating agreement.

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22 SECTION 5. Arkansas Code § 4-38-602(3), concerning a foreclosure sale  
23 as an event causing dissociation under the Uniform Limited Liability Company  
24 Act, is repealed.

25 ~~(3) the person's entire interest is transferred in a foreclosure~~  
26 ~~sale under § 4-38-503(f);~~

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28 SECTION 6. Arkansas Code § 4-38-602(5), concerning expulsion of a  
29 member if a charging order has not been foreclosed under the Uniform Limited  
30 Liability Company Act, is amended to read as follows:

31 (5) the person is expelled as a member by the affirmative vote  
32 or consent of all the other members if:

33 (A) it is unlawful to carry on the limited liability  
34 company's activities and affairs with the person as a member;

35 (B) there has been a transfer of all the person's  
36 transferable interest in the company, other than:

1 (i) a transfer for security purposes; or  
2 (ii) a charging order in effect under § 4-38-503  
3 ~~which has not been foreclosed;~~

4 (C) the person is an entity and:

5 (i) the company notifies the person that it will be  
6 expelled as a member because the person has filed a statement of dissolution  
7 or the equivalent, the person has been administratively dissolved, the  
8 person's charter or the equivalent has been revoked, or the person's right to  
9 conduct business has been suspended by the person's jurisdiction of  
10 formation; and

11 (ii) not later than ~~90~~ ninety (90) days after the  
12 notification, the statement of dissolution or the equivalent has not been  
13 withdrawn, rescinded, or revoked, the person has not been reinstated, or the  
14 person's charter or the equivalent or right to conduct business has not been  
15 reinstated; or

16 (D) the person is an unincorporated entity that has been  
17 dissolved and whose activities and affairs are being wound up;

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*/s/Maddox*