

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2355**

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**Introduced by Assembly Member Bill Campbell**

February 21, 2002

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An act to amend Sections 708.310 and 708.320 of the Code of Civil Procedure, and to amend Section 17302 of the Corporations Code, relating to limited liability companies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2355, as amended, Bill Campbell. Limited liability partnership and limited liability companies.

Limited liability companies are regulated pursuant to the Beverly-Killea Limited Liability Company Act. Existing law authorizes a court of competent jurisdiction, upon application by a judgment creditor of a member of a limited liability company, to charge the membership interest of the member with payment of an unsatisfied judgment.

This bill would extend these provisions to an application by a judgment creditor against an assignee of the membership *interest*, and would provide that service of a notice of motion for a charging order on a judgment debtor and on the members or ~~membership~~ *limited liability company* creates a lien on the judgment debtor's interest in the ~~membership~~ *limited liability company*. The bill would provide that the lien continue under the terms of the charging order, if granted, and would authorize the court to order a foreclosure on the interest if certain conditions are met. The bill would provide that the purchaser at the foreclosure sale has the rights of an assignee. The bill would also

provide that, at any time before foreclosure, an interest charged may be redeemed by the judgment debtor, by other members with property other than ~~membership~~ property of the limited liability company, or by other members with ~~membership~~ property of the limited liability company with the consent of the members whose interests are not so charged. The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 708.310 of the Code of Civil Procedure  
2 is amended to read:

3 708.310. If a money judgment is rendered against a partner or  
4 member but not against the partnership or ~~membership~~ limited  
5 liability company, the judgment debtor’s interest in the partnership  
6 or ~~membership~~ limited liability company may be applied toward  
7 the satisfaction of the judgment by an order charging the judgment  
8 debtor’s interest pursuant to Section 15673 or 17302 of the  
9 Corporations Code.

10 SEC. 2. Section 708.320 of the Code of Civil Procedure is  
11 amended to read:

12 708.320. (a) Service of a notice of motion for a charging  
13 order on the judgment debtor and on the other partners or the  
14 partnership or on the other members or the ~~membership~~ limited  
15 liability company creates a lien on the judgment debtor’s interest  
16 in the partnership or ~~membership~~ limited liability company.

17 (b) If a charging order is issued, the lien created pursuant to  
18 subdivision (a) continues under the terms of the order. If issuance  
19 of the charging order is denied, the lien is extinguished.

20 SEC. 3. Section 17302 of the Corporations Code is amended  
21 to read:

22 17302. (a) On application to a court of competent jurisdiction  
23 by any judgment creditor of a member or of an assignee of the  
24 membership interest, the court may charge the interest of the  
25 judgment debtor with payment of the unsatisfied amount of the  
26 judgment with interest. To the extent so charged, the judgment  
27 creditor has only the rights of an assignee of the membership  
28 interest.



1 (b) A charging order constitutes a lien on the judgment debtor's  
2 interest ~~in the membership~~. The court may order a foreclosure on  
3 the interest subject to the charging order ~~at any time when:~~

4 ~~(1) The creditor has previously obtained a charging order and~~  
5 ~~the judgement nevertheless remains unsatisfied.~~

6 ~~(2) The foreclosure on the interest will not be disruptive to~~  
7 ~~membership business..~~

8 (c) The purchaser at the foreclosure sale has the rights of an  
9 assignee.

10 (d) At any time before foreclosure, an interest charged may be  
11 redeemed in any of the following manners:

12 (1) By the judgment debtor.

13 (2) With property other than membership ~~property~~ *property of*  
14 *the limited liability company* by one or more of the other members.

15 (3) With ~~membership property~~ *property of the limited liability*  
16 *company* by one or more of the other members with the consent of  
17 all of the members whose interests are not so charged.

18 (e) This section does not deprive any member *or assignee of a*  
19 *membership interest* of the benefit of any exemption laws  
20 applicable to the ~~member's~~ membership interest.

21 (f) This section provides the exclusive remedy by which a  
22 judgment creditor of a member or of a member's assignee may  
23 satisfy a judgment out of the judgment debtor's membership  
24 interest in the ~~membership~~ *limited liability company*.

