

ULLCPSA Section 402 – Version 9-22-16
(Safe Harbor to Be Added to Section 301)

SECTION 402. ENFORCEMENT OF JUDGMENT AGAINST NON-ASSOCIATED ASSET.

(a) In addition to any other remedy provided by the law of this state other than this [act] or by equity, a judgment against a series limited liability company or a protected series may be enforced according to the following rules.

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

(A) the asset was a non-associated asset of the protected series when the liability giving rise to the judgment was incurred; or

(B) the asset is a non-associated asset of the protected series when enforcement against the asset is obtained under this section by attachment, levy, lien, or the like.

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

(A) the asset was a non-associated asset of the company when the liability giving rise to the judgment was incurred; or

(B) the asset is a non-associated asset of the company when enforcement against the asset is obtained under this section by attachment, levy, lien, or the like.

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

(A) the asset was a non-associated asset of the other protected series when the liability giving rise to the judgment was incurred; or

(B) the asset is a non-associated asset of the other protected series when enforcement against the asset is obtained under this section by attachment, levy, lien, or the like.

(b) The rules stated in subsection (a) apply in a proceeding seeking a prejudgment remedy as permitted by applicable law, by attachment, levy, lien, or the like, even though no judgment has been {entered} {ordered}.

(c) In a proceeding under this section, the party asserting that an asset is an associated asset has the burden of proof on the issue.