

386A.6-060 Charging order.

- (1) If a beneficial interest is not freely transferable by a beneficial owner so that the transferee has all rights of the transferor, this section provides the exclusive remedy by which the judgment creditor of a beneficial owner or a transferee of a beneficial owner may satisfy a judgment out of the judgment debtor's beneficial interest.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a beneficial owner or a beneficial owner's transferee, a court may charge the judgment debtor's beneficial interest with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor shall have no right to participate in the management or to cause the dissolution of the statutory trust. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the beneficial interest and make all other orders, directions, accounts, and inquiries the judgment creditor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's beneficial interest. A charging order does not of itself constitute an assignment of the beneficial interest.
- (4) The court may order a foreclosure upon the beneficial interest subject to the charging order at any time. The purchaser of the beneficial interest at the foreclosure sale shall have no right to participate in the management or to cause the dissolution of the statutory trust. Upon foreclosure the beneficial owner shall be dissociated from and cease to be a beneficial owner of the trust. At any time before foreclosure, the charged beneficial interest may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than statutory trust property, by one (1) or more of the other beneficial owners; and
 - (c) With statutory trust property, by the statutory trust with the consent of the trustees.
- (5) This section does not deprive a beneficial owner or a beneficial owner's transferee of the benefit of any exemption laws applicable to the beneficial interest.
- (6) The statutory trust is not a necessary party to an application for a charging order. Service of the charging order on a statutory trust may be made by the court granting the charging order or as the court should otherwise direct.
- (7) This section shall not apply to the enforcement of a judgment by a statutory trust against a beneficial owner of that trust.
- (8) This section shall apply to the issuance of a charging order against the beneficial interest of a beneficial owner or assignee of a beneficial owner of a foreign statutory trust.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 193, sec. 21, effective June 29, 2017. --
Created 2012 Ky. Acts ch. 81, sec. 50, effective July 12, 2012.