

**Source** – RUPA Section 503, except for subsection (g), which derives from RULPA Section 704(b). Following RUPA, this Act uses the words “transfer” and “transferee” rather than the words “assignment” and “assignee.” See RUPA Section 503.

**Subsection (a)(2)** – The phrase “by itself” is significant. A transfer of all of a person’s transferable interest could lead to dissociation via expulsion, Sections 601(b)(4)(B) and 603(4)(B).

**Subsection (a)(3)** – Mere transferees have no right to intrude as the partners carry on their activities as partners. Moreover, a partner’s obligation of good faith and fair dealing under Sections 305(b) and 408(d) is framed in reference to “the limited partnership and the other partners.” See also Comment to Section 1102(b)(3) and Comment to Section 1106(b)(3).

### **SECTION 703. RIGHTS OF CREDITOR OF PARTNER OR TRANSFEREE.**

(a) On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. 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 partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(b) A charging order constitutes a lien on the judgment debtor’s transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

(1) by the judgment debtor;

(2) with property other than limited partnership property, by one or more of the other partners; or

(3) with limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(d) This [Act] does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

### **Comment**

**Source** – RUPA Section 504 and ULLCA Section 504.

This section balances the needs of a judgment creditor of a partner or transferee with the needs of the limited partnership and non-debtor partners and transferees. The section achieves that balance by allowing the judgment creditor to collect on the judgment through the transferable interest of the judgment debtor while prohibiting interference in the management and activities of the limited partnership.

Under this section, the judgment creditor of a partner or transferee is entitled to a charging order against the relevant transferable interest. While in effect, that order entitles the judgment creditor to whatever distributions would otherwise be due to the partner or transferee whose interest is subject to the order. The creditor has no say in the timing or amount of those distributions. The charging order does not entitle the creditor to accelerate any distributions or to otherwise interfere with the management and activities of the limited partnership.

Foreclosure of a charging order effects a permanent transfer of the charged transferable interest to the purchaser. The foreclosure does not, however, create any rights to participate in the management and conduct of the limited partnership's activities. The purchaser obtains nothing more than the status of a transferee.

**Subsection (a)** – The court's power to appoint a receiver and “make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require” must be understood in the context of the balance described above. In particular, the court's power to make orders “which the circumstances may require” is limited to “giv[ing] effect to the charging order.”

**Example:** A judgment creditor with a charging order believes that the limited partnership should invest less of its surplus in operations, leaving more funds for distributions. The creditor moves the court for an order directing the general partners to restrict re-investment. This section does not authorize the court to grant the motion.

**Example:** A judgment creditor with a judgment for \$10,000 against a partner obtains a charging order against the partner's transferable interest. The limited partnership is duly served with the order. However, the limited partnership subsequently fails to comply with the order and makes a \$3000 distribution to the partner. The court has the power to order the limited partnership to turn over \$3000 to the judgment creditor to "give effect to the charging order."

The court also has the power to decide whether a particular payment is a distribution, because this decision determines whether the payment is part of a transferable interest subject to a charging order. (To the extent a payment is not a distribution, it is not part of the transferable interest and is not subject to subsection (e). The payment is therefore subject to whatever other creditor remedies may apply.)

**Subsection (c)(3)** – This provision requires the consent of all the limited as well as general partners.

**SECTION 704. POWER OF ESTATE OF DECEASED PARTNER.** If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in Section 702 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under Section 304.

#### **Comment**

Section 702 strictly limits the rights of transferees. In particular, a transferee has no right to participate in management in any way, no voting rights and, except following dissolution, no information rights. Even after dissolution, a transferee's information rights are limited. See Section 702(c).

This section provides special informational rights for a deceased partner's legal representative for the purposes of settling the estate. For those purposes, the legal representative may exercise the informational rights of a current limited partner under Section 304. Those rights are of course subject to the limitations and obligations stated in that section – *e.g.*, Section

304 (g) ( restrictions on use) and (h) (charges for copies) – as well as any generally applicable limitations stated in the partnership agreement.