

Committee on Commerce and Tourism

CS/HB 253 — Limited Liability Companies

by Civil Justice Subcommittee; and Rep. Stargel, and others (CS/SB 1152 by Banking and Insurance Committee and Senator Simmons)

In response to a Florida Supreme Court holding about remedies available to a judgment creditor of a single-member limited liability company, CS/HB 253 amends s. 608.433, F.S. The bill clarifies that the general application of the decision in Olmstead v. Federal Trade Commission to single-member limited liability companies does not apply to multiple-member limited liability companies.

The bill provides, with one exception, that a charging order is the “sole and exclusive remedy” by which a judgment creditor of a member or member’s assignee may satisfy a judgment from a judgment debtor’s interest in a limited liability company or rights to distributions from a limited liability company. The exception arises in situations where a limited liability company has only one member. The bill provides that the court may order the sale of a member’s interest in a single-member limited liability company if the judgment creditor shows that distributions under a charging order will not satisfy the judgment in a reasonable time.

The bill provides that the amendments made to s. 608.433, F.S., are clarifying and apply retroactively.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 112-1