

386A.4-020 Enforceability of obligations and expenses of series.

- (1) Subject to subsection (2) of this section:
 - (a) A debt, liability, obligation, and expense incurred, contracted for, or otherwise existing with respect to a series, whether in its name or as to the property of or associated therewith, shall be enforceable against the assets of or associated with that series only, and shall not be enforceable against the assets of the statutory trust generally or any assets of or associated with other series thereof; and
 - (b) None of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the statutory trust generally or any other series thereof shall be enforceable against the assets of or associated with a series.
- (2) Subsection (1) of this section applies only if:
 - (a) The records maintained by the statutory trust account for the assets of or associated with that series separately from the other assets of the statutory trust or of or associated with any other series;
 - (b) The governing instrument contains a statement to the effect of the limitations provided in subsection (1) of this section; and
 - (c) The statutory trust's certificate of trust contains a statement that the statutory trust may have one (1) or more series subject to the limitations provided in subsection (1) of this section.
- (3) The statement of limitation on liabilities of a series required by subsection (2)(c) of this section is sufficient regardless of whether:
 - (a) The statutory trust has established any series under this subchapter when the statement of limitations is contained in the certificate of formation; and
 - (b) The statement of limitations makes reference to any specific series of the statutory trust.
- (4) If the records are maintained in a manner such that the assets of or associated with a series can be reasonably identified by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any assets, or by any other method in which the identity of the assets can be objectively determined, the records are considered to satisfy the requirements of subsection (2)(a) of this section.
- (5) The association, disassociation, or reassociation of property of a statutory trust or a series thereof to or with the trust or a series thereof is deemed to be a transfer between separate persons under the laws of Kentucky governing fraudulent transfers.
- (6) A distribution by a series shall be made to the beneficial owner associated with the series.

Effective: July 12, 2012

History: Created 2012 Ky. Acts ch. 81, sec. 23, effective July 12, 2012.