



Ohio Revised Code

Section 1705.081 [Repealed Effective 2/11/2022 - See R.C. 1706.83] Effect of operating agreement.

Effective: July 6, 2016

Legislation: Senate Bill 181

(A) Except as otherwise provided in divisions (B) and (C) of this section, an operating agreement governs relations among members and between members, any managers, and the limited liability company. A limited liability company is bound by the operating agreement of its member or members whether or not the limited liability company executes the operating agreement. To the extent the operating agreement does not otherwise provide, this chapter governs relations among the members and between the members, any managers, and the limited liability company.

(B) Except as otherwise provided in division (C) of this section, the operating agreement may not do any of the following:

(1) Vary the rights and duties under section 1705.04 of the Revised Code;

(2) Unreasonably restrict the right of access to books and records under section 1705.22 of the Revised Code;

(3) Eliminate the duty of loyalty under division (B) of section 1705.161 of the Revised Code or division (B) of section 1705.281 of the Revised Code, but the operating agreement may identify activities that do not violate the duty of loyalty, and all of the members or a number or percentage of members specified in the operating agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(4) Eliminate the duty of care under division (B) of section 1705.161 of the Revised Code or division (C) of section 1705.281 of the Revised Code, but the operating agreement may prescribe the standards by which the duty is to be measured;

(5) Eliminate the obligation of good faith and fair dealing under division (D) of section 1705.281 of the Revised Code, but the operating agreement may prescribe the standards by which the



performance of the obligation is to be measured;

(6) Eliminate the duties of a manager under division (B) of section 1705.29 of the Revised Code, but the articles or the operating agreement may provide that a manager who is a member of the limited liability company or who is serving as the representative of a member owes to the limited liability company and the other members only the duties that would be owed by the member or may prescribe in writing the standards by which performance is to be measured or identify activities that do not violate the manager's duties;

(7) Eliminate the duties of an officer under section 1705.292 of the Revised Code, but the articles or the operating agreement may provide that an officer who is a member of the limited liability company or who is serving as the representative of a member owes to the limited liability company and the other members only the duties that would be owed by the member or may prescribe in writing the standards by which performance is to be measured or specify activities that do not violate the officer's duties;

(8) Vary the requirement to wind up the limited liability company's business in cases specified in division (A) or (B) of section 1705.47 of the Revised Code;

(9) Restrict the rights of third parties under this chapter.

(C) A written agreement, including a written operating agreement, that modifies, waives, or eliminates the duty of loyalty, the duty of care, or both for one or more members, managers, or officers shall be given effect.

(D) It is the policy of this chapter, subject to the limitations of divisions (B) and (C) of this section, to give maximum effect to the principle of freedom of contract and to the enforceability of operating agreements. Except as provided in divisions (B) and (C) of this section, the default rules relating to the rights and obligations between and among the members, managers, and officers of a limited liability company set forth in sections 1705.01 to 1705.52 and section 1705.61 of the Revised Code may be modified by the operating agreement or by the articles of organization.