



Ohio Revised Code

Section 1705.292 [Repealed Effective 2/11/2022 - See R.C. 1706.83] Fiduciary duties of officers.

Effective: July 6, 2016

Legislation: Senate Bill 181

(A) Unless either a written operating agreement for the limited liability company or a written agreement with an officer establishes additional fiduciary duties or the duties of an officer have been modified, waived, or eliminated as contemplated by section 1705.081 of the Revised Code, the only fiduciary duties of an officer to the limited liability company or its members are the following:

(1) If the individual is a member of the limited liability company or serving as the representative of a member and the individual is not a manager of the limited liability company, then the individual owes the duties that would be owed by a member.

(2) If the individual is a member of the limited liability company or serving as the representative of a member and the individual is a manager of the limited liability company and in that capacity owes the duties that would be owed by a member, then the individual owes the duties that would be owed by a member.

(3) If divisions (A)(1) and (2) of this section do not apply, the individual owes to the limited liability company the duties of an officer set forth in division (B) of this section.

(B) An officer of a limited liability company shall perform the officer's duties in good faith, in a manner the officer reasonably believes to be in or not opposed to the best interests of the limited liability company, and with the care that an ordinarily prudent person in a like position would use under similar circumstances.

(C) For purposes of division (B) of this section, both of the following apply:

(1) An officer of a limited liability company shall not be found to have violated the officer's duties under this section unless it is proved by clear and convincing evidence in any action brought against the officer that the officer has not acted in good faith, in a manner the officer reasonably believes to



be in or not opposed to the best interests of the limited liability company, or with the care that an ordinarily prudent person in a like position would use under similar circumstances.

(2) An officer shall not be considered to be acting in good faith if the officer has knowledge concerning the matter in question that would cause reliance on information, opinions, reports, or statements that are prepared or presented by any of the persons described in section 1705.30 of the Revised Code to be unwarranted.

(D) An officer shall be liable in damages for a violation of the officer's duties under division (B) of this section only if it is proved by clear and convincing evidence in a court of competent jurisdiction that the officer's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the limited liability company or undertaken with reckless disregard for the best interests of the company. This division does not apply if, and only to the extent that, at the time of an officer's act or omission that is the subject of complaint, either of the following is true:

(1) The articles or the operating agreement of the limited liability company state by specific reference to division (D) of this section that the provisions of this division do not apply to the limited liability company.

(2) A written agreement between the officer and the limited liability company states by specific reference to division (D) of this section that the provisions of this division do not apply to the officer.

(E) Nothing in this section affects the duties of an officer who acts in any capacity other than the officer's capacity as an officer. Nothing in this section affects any contractual obligations of an officer to the limited liability company.