



## Ohio Revised Code

### Section 1706.311 Duties of a manager to a limited liability company and its members.

Effective: April 12, 2021

Legislation: Senate Bill 276 - 133rd General Assembly

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(A) Unless either a written operating agreement for the limited liability company or a written agreement with a manager establishes additional fiduciary duties or the duties of the manager have been modified, waived, or eliminated as contemplated by section 1706.08 of the Revised Code, the only fiduciary duties of a manager to the limited liability company or its members are the duty of loyalty and the duty of care set forth in divisions (B) and (C) of this section.

(B) A manager's duty of loyalty to the limited liability company and its members is limited to the following:

(1) To account to the limited liability company and hold for it any property, profit, or benefit derived by the manager in the conduct and winding up of the limited liability company business or derived from a use by the manager of limited liability company property or from the appropriation of a limited liability company opportunity;

(2) To refrain from dealing with the limited liability company in the conduct or winding up of the limited liability company business as or on behalf of a party having an interest adverse to the limited liability company.

(C) A manager's duty of care to the limited liability company in the conduct and winding up of the limited liability company activities is limited to acting in good faith, in a manner the manager reasonably believes to be in or not opposed to the best interests of the limited liability company.

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

(1) A manager of a limited liability company shall not be determined to have violated the manager's duties under division (C) of this section unless it is proved that the manager has not acted in good faith, in a manner the manager reasonably believes to be in or not opposed to the best interests of the



limited liability company.

(2) A manager shall not be considered to be acting in good faith if the manager 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 1706.331 of the Revised Code to be unwarranted.

(E) A manager shall be liable for monetary relief for a violation of the manager's duties under division (C) of this section only if it is proved that the manager'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 a manager'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 (E) of this section that the provisions of this division do not apply to the limited liability company.

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

(F) All the members of a limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty. It is a defense to a claim under division (B)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company. If, as permitted by this division or the operating agreement, a manager enters into a transaction with the limited liability company that otherwise would be prohibited by division (B)(2) of this section, the manager's rights and obligations arising from the transaction are the same as those of a person that is not a manager.

(G) A manager shall discharge the duties to the limited liability company and the members under this chapter and under the operating agreement and exercise any rights consistently with the implied covenant of good faith and fair dealing.



(H) Nothing in this section affects the duties of a manager who acts in any capacity other than the manager's capacity as a manager. If a manager of a limited liability company also is a member of the limited liability company, the actions taken in the capacity as a member of the limited liability company shall be subject to section 1706.31 of the Revised Code. Nothing in this section affects any contractual obligations of a manager to the limited liability company.