

275.003 Construction of chapter.

- (1) It shall be the policy of the General Assembly through this chapter to give maximum effect to the principles of freedom of contract and the enforceability of operating agreements. Unless displaced by particular provisions of this chapter, the principles of law and equity shall supplement this chapter. Although this chapter is in derogation of common law, the rules of construction that require strict construction of statutes which are in derogation of common law shall not apply to its provisions. This chapter shall not be construed to impair the obligations of any contract existing when this chapter, or any amendment of it, becomes effective, nor to affect any action or proceeding begun or right accrued before the chapter or amendment takes effect.
- (2) A written operating agreement may provide that the limited liability company interest of any member who fails to make any contribution that the member is obligated to make or who otherwise violates an obligation undertaken in the operating agreement shall be subject to specified penalties for, or specified consequences, such failure. Such penalty or consequence may take the form of:
 - (a) Reducing or eliminating the defaulting member's proportionate interest in the limited liability company;
 - (b) Subordinating the member's interest to that of nondefaulting members;
 - (c) A forced sale of that limited liability company interest;
 - (d) Forfeiture of his or her limited liability company interest;
 - (e) The lending by other members of the amount necessary to meet the defaulting member's commitment;
 - (f) A fixing of the value of his or her limited liability company interest by appraisal or by formula and redemption or sale of the limited liability company interest at such; or
 - (g) Other penalty or consequence.
- (3) A written operating agreement may provide rights to any person, including a person who is not a member or not otherwise a party to the operating agreement, to the extent set forth therein.
- (4) Except to the extent set forth in a written operating agreement, a limited liability company is bound by and a party to the operating agreement.
- (5) Action validly taken pursuant to one (1) provision of this chapter shall not be deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to some other provision of this chapter but fails to satisfy one (1) or more requirements prescribed by such other provision.
- (6) No member or other person shall have a vested property right resulting from any provision of the operating agreement which may not be modified by its amendment or as otherwise permitted by law.
- (7) Each member and manager and any other party to an operating agreement shall discharge all duties and exercise all rights consistently with the obligation of good faith and fair dealing. The obligation of good faith and fair dealing may not be

eliminated in the operating agreement, but it may prescribe the standards by which the performance of the obligation is to be measured provided the standards are not manifestly unreasonable.

- (8) To the extent the articles of organization and the operating agreement do not otherwise provide, the Kentucky Limited Liability Company Act shall govern relations among the limited liability company, the members, the managers, and the assignees.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 81, sec. 104, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 133, sec. 28, effective July 15, 2010. -- Created 1994 Ky. Acts ch. 389, sec. 92, effective July 15, 1994.