

RCW 25.15.038 General standards—Limitation of liability.

(1) (a) The only fiduciary duties that a member in a member-managed limited liability company or a manager has to the limited liability company and its members are the duties of loyalty and care under subsections (2) and (3) of this section.

(b) If a manager is a board, committee, or other group of persons, this section applies to each person included in such board, committee, or other group of persons as if such person were a manager.

(2) The duty of loyalty is limited to the following:

(a) To account to the limited liability company and hold as trustee for it any property, profit, or benefit derived by such manager or member in the conduct and winding up of the limited liability company's activities or derived from a use by such manager or member of limited liability company property, including the appropriation of a limited liability company opportunity;

(b) To refrain from dealing with the limited liability company as or on behalf of a party having an interest adverse to the limited liability company; and

(c) To refrain from competing with the limited liability company in the conduct or winding up of the limited liability company's activities.

(3) (a) The duty of care is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law in the conduct and winding up of the limited liability company's activities.

(b) A member or manager is not in violation of the duty of care as set forth in (a) of this subsection if, in discharging such duty, the member or manager relies in good faith upon the records of the limited liability company and upon such opinions, reports, or statements presented to the limited liability company by any person, including any manager, member, officer, or employee of the limited liability company, as to matters which the member or manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the limited liability company, including opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the limited liability company or any other facts pertinent to the existence and amount of assets from which distributions to members might properly be paid.

(4) A manager or member does not violate a duty under this chapter or under the limited liability company agreement merely because the manager's or member's conduct furthers the manager's or member's own interest.

(5) A manager or member is not liable to the limited liability company or its members for the manager's or member's good faith reliance on the limited liability company agreement.

(6) To the extent that, at law or in equity, a member or manager has duties (including fiduciary duties) to a limited liability company or to another member, manager, or other person bound by a limited liability company agreement, the member's or manager's duties may be modified, expanded, restricted, or eliminated by the provisions of a limited liability company agreement; provided that such provisions are not inconsistent with law and do not eliminate or limit:

(a) The duty of a member or manager to avoid intentional misconduct and knowing violations of law, or violations of RCW 25.15.231; or

(b) The implied contractual duty of good faith and fair dealing.

(7) A limited liability company agreement may contain provisions not inconsistent with law that eliminate or limit the personal liability of a member or manager to the limited liability company or its members or other persons bound by a limited liability company agreement for conduct as a member or manager, provided that such provisions do not eliminate or limit the liability of a member or manager for acts or omissions that involve intentional misconduct or a knowing violation of law by a member or manager, for conduct of the member or manager violating RCW 25.15.231, or for any act or omission that constitutes a violation of the implied contractual duty of good faith and fair dealing. [2015 c 188 § 11.]