

**17-76,134. Construction and application of act and operating agreement.** (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

(b) It is the policy of this act to give the maximum effect to the principle of freedom of contract and to the enforceability of operating agreements.

(c) To the extent that, at law or in equity, a member or manager or other person has duties, including fiduciary duties, to a limited liability company or to another member or manager or to another person that is a party to or is otherwise bound by an operating agreement, the member's or manager's or other person's duties may be expanded or restricted or eliminated by provisions in the operating agreement, except that the operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

(d) Unless otherwise provided in an operating agreement, a member or manager or other person shall not be liable to a limited liability company or to another member or manager or to another person who is a party to or is otherwise bound by an operating agreement for breach of fiduciary duty for the member's or manager's or other person's good faith reliance on the provisions of the operating agreement.

(e) An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties, including fiduciary duties, of a member, manager or other person to a limited liability company or to another member or manager or to another person that is a party to or is otherwise bound by an operating agreement, except that an operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

(f) Unless the context otherwise requires, as used herein, the singular shall include the plural and the plural may refer to only the singular.

(g) K.S.A. 84-9-406 and 84-9-408, and amendments thereto, do not apply to any interest in a limited liability company, including all rights, powers and interests arising under an operating agreement or this act. This provision prevails over K.S.A. 84-9-406 and 84-9-408, and amendments thereto.

(h) Action validly taken pursuant to one provision of this act 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 act but fails to satisfy one or more requirements prescribed by such other provision.

(i) An operating agreement that provides for the application of Kansas law shall be governed by and construed under the laws of the state of Kansas in accordance with its terms.

**History:** L. 1999, ch. 119, § 73; L. 2014, ch. 40, § 57; July 1.