Statute 428-103: Effect of operating agreement; nonwaivable provisions

(a) Except as provided in subsection (b), all the members of a limited liability company may enter into an operating agreement to regulate the affairs of the company and the conduct of its business, and to govern relations among the members, managers, and company. To the extent the operating agreement does not otherwise provide, this chapter governs relations among the members, managers, and company. (b) The operating agreement may not: (1) Unreasonably restrict a right to information or access to records under section 428-408; (2) Eliminate the duty of loyalty under section 428-409(b) or 428-603(b)(3), but the agreement may: (A) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and (B) Specify the number or percentage of members or disinterested managers that may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty; (3) Unreasonably reduce the duty of care under section 428-409(c) or 428-603(b)(3); (4) Eliminate the obligation of good faith and fair dealing under section 428-409(d), but the operating agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable; (5) Vary the right to expel a member in an event specified in section 428-601(5); (6) Vary the requirement to wind up the limited liability company's business in a case specified in section 428-801(3) or 428-801(4); or (7) Restrict rights of third parties under this chapter, other than managers, members, or their transferees. [L 1996, c 92, pt of §1; am L 1999, c 164, §2; am L 2004, c 121, §44]