

**275.170 Duties of care and loyalty -- Approval of conflict of interest transactions --  
Remedy for breach of the duty of loyalty.**

Unless otherwise provided in a written operating agreement:

- (1) With respect to any claim for breach of the duty of care, a member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.
- (2) The duty of loyalty applicable to each member and manager shall be to account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers, or a majority-in-interest of the members from:
  - (a) Any transaction connected with the conduct or winding up of the limited liability company; or
  - (b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his or her status as manager or member.
- (3) In determining whether a transaction has received the approval of a majority-in-interest of the members, membership interests owned by or voted under the control of the member or manager whose actions are under review in accordance with subsection (2) of this section, and membership interests owned by an entity owned by or voted under the control of that member or manager, shall not be counted in a vote of the members to determine whether to consent, and the membership interests shall not be counted in determining whether a quorum, if required by a written operating agreement, exists to consider whether to consent. That a transaction was fair to the limited liability company shall not constitute a defense to the failure to request and receive the required consent of the disinterested managers or members.
- (4) A member of a limited liability company in which management is vested in managers under KRS 275.165(2) and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his or her capacity as a member.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 81, sec. 106, effective July 12, 2012. -- Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 109, effective July 15, 2010; and amended ch. 133, sec. 32, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 137, sec. 109, effective June 26, 2007. -- Amended 1998 Ky. Acts ch. 341, sec. 28, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 389, sec. 34, effective July 15, 1994.

**Legislative Research Commission Note (7/15/2010).** 2010 Ky. Acts ch. 51, sec. 183, provides, "The specific textual provisions of Sections 1 to 178 of this Act which reflect amendments made to those sections by 2007 Ky. Acts ch. 137 shall be deemed effective as of June 26, 2007, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text of those sections being unaffected by the provisions of this section."

**Legislative Research Commission Note (7/15/2010).** This section was amended by 2010 Ky. Acts ch. 133, and repealed and reenacted by 2010 Ky. acts ch. 51. Pursuant to Section 184 of Acts ch. 51, it was the intent of the General Assembly that the repeal and reenactment not serve to void the amendment, and these Acts do not appear to be in conflict; therefore, they have been codified together.