

TITLE 4: ECONOMIC RESOURCES
DIVISION 4: CORPORATIONS, PARTNERSHIPS AND ASSOCIATIONS

§ 40103. Effect of Partnership Agreement; Nonwaivable Provisions.

(a) Except as otherwise provided in subsection (b), relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

(b) The partnership agreement may not:

(1) vary the rights and duties under 4 CMC § 40105 except to eliminate the duty to provide copies of statements to all of the partners;

(2) unreasonably restrict the right of access to books and records under 4 CMC § 40133(b);

(3) eliminate the duty of loyalty under 4 CMC §§ 40134(b) or 40153(b)(3), but:

(i) the partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; or

(ii) all of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(4) unreasonably reduce the duty of care under 4 CMC § 40134(c) or 4 CMC § 40153(b)(3);

(5) eliminate the obligation of good faith and fair dealing under 4 CMC § 40134(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(6) vary the power to dissociate as a partner under 4 CMC § 40152, except to require the notice under 4 CMC § 40151(a) to be in writing;

(7) vary the right of a court to expel a partner in the events specified in 4 CMC § 40151(e);

(8) vary the requirement to wind up the partnership business in cases specified in 4 CMC § 40161(d), (e), or (f);

(9) vary the law applicable to a limited liability partnership under 4 CMC § 40106(b); or

(10) restrict rights of third parties under this chapter.

Source: PL 15-88, § 2(103), modified.

Commission Comment: Pursuant to 1 CMC § 3806(c), (d) and (f), the Commission inserted the appropriate code section references for references to PL 15-88 sections; changed all references to “this Act” to “this chapter;” and changed capitalization in this section.