

Limited Liability Companies – Freedom of Contract

“One of the most important characteristics of LLCs under most or all jurisdiction’s LLC acts is the freedom of contract,” writes James Landon in *Offit Kurman’s blog*.

“The most famous expression of LLC freedom of contract is § 18-1101(b) of the Delaware LLC Act. Section 18-1101(b) provides that ‘it is the policy of this [Act] to give the maximum effect to the principle of freedom of contract and the enforceability of LLC agreements.’ The Delaware LLC Act has deeply influenced the drafting of many other LLC acts across the country, and at least 17 other acts contain a provision identical to Delaware’s § 18-1101(b). But even LLC acts that don’t contain such a provision are characterized, like the Delaware LLC Act, by the fact that virtually all of their provisions relevant to LLC formations are default provisions. In other words, provisions whose very terms expressly permit LLC members to contractually alter them as they wish in their operating agreements to meet their specific and unique needs and interests.”

Read the article.