

# SB2128



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2128

Introduced 2/14/2008, by Sen. John J. Cullerton

#### SYNOPSIS AS INTRODUCED:

765 ILCS 605/18.8 new  
30 ILCS 105/5.708 new

Amends the Condominium Property Act. Requires licensing of managers of community associations. Creates the Community Association Manager Regulatory Commission, whose members are appointed by the Governor, to administer the licensing. Requires the payment of fees. Sets forth licensing requirements. Provides for discipline and other matters. Amends the State Finance Act to create a special fund. Effective July 1, 2009.

LRB095 18826 AJO 44953 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Condominium Property Act is amended by  
5 adding Section 18.8 as follows:

6 (765 ILCS 605/18.8 new)

7 Sec. 18.8. Licensing of managers of community  
8 associations.

9 (a) Legislative declaration. It is declared to be in the  
10 best interest of the citizens of the State of Illinois and a  
11 proper exercise of the police power of the State of Illinois to  
12 provide for the regulation of managers of community  
13 associations, who hold themselves out as possessing  
14 professional qualifications as managers of community  
15 associations and are, in fact, qualified to render management  
16 services of a professional nature, and to provide for the  
17 maintenance of high standards of professional conduct by those  
18 licensed as managers of community associations. Because of the  
19 customary reliance by the public, specifically the duly  
20 appointed or elected governing body of common interest  
21 community associations, upon the financial, supervisory, and  
22 managerial services of persons purporting to possess expert  
23 knowledge in the field of community association management and

1 as custodian of community association funds, it is further  
2 declared to be in the best interest of Illinois citizens to  
3 limit and restrict, under the circumstances set forth in this  
4 Section, the issuance of licenses to community association  
5 managers who have been certified to possess the necessary  
6 knowledge in the relevant financial, managerial, and  
7 supervisory services, or compliance with conditions  
8 established by law or contract of persons so licensed.

9 (b) Definitions. As used in this Section, unless the  
10 context otherwise requires:

11 "License" means the license issued to a manager of  
12 community associations for the State.

13 "License holder" means a person to whom a license has  
14 been issued.

15 "Commission" means the Community Associations Manager  
16 Regulatory Commission.

17 "Community association" means an association in which  
18 membership is a condition of ownership or shareholder  
19 interest of a unit in a condominium, cooperative,  
20 townhouse, villa, or other residential unit that is part of  
21 a residential development plan and that is authorized to  
22 impose an assessment and other costs that may become a lien  
23 on the unit or lot.

24 "Community association manager" means an individual  
25 who administers for compensation the coordination of  
26 financial, administrative, maintenance, or other duties

1 called for in the management contract, including  
2 individuals who are direct employees of a community  
3 association. A manager does not include support staff, such  
4 as bookkeepers, administrative assistants, secretaries,  
5 property inspectors, customer service representatives, or  
6 managers in training.

7 "Manager in training" means any individual who is  
8 training to become a manager and is under the supervision  
9 of a license holder. During the training period, a manager  
10 in training may not be licensed. A manager in training  
11 shall not have signatory authority on any community  
12 association bank account. Further, after a period of one  
13 year, a manager in training is required to be licensed by  
14 the State.

15 (c) License requirement. In order to provide community  
16 association management services to community associations in  
17 Illinois, individuals must possess a license issued by the  
18 Community Association Manager Regulatory Commission.

19 (d) Community Association Manager Regulatory Commission.

20 (1) The Community Association Manager Regulatory  
21 Commission shall consist of 9 members appointed by the  
22 Governor, with the advice and consent of the Senate, and  
23 who shall have been residents of the State of Illinois for  
24 5 years prior to the date of appointment.

25 (2) Seven members of the Commission shall be license  
26 holders and residents of Illinois. Until the license

1 program has been established and grants licenses, these  
2 members must hold the qualifications to be license holders.  
3 Each of the remaining 2 members shall be a member who does  
4 not hold a license and shall be an owner or shareholder of  
5 a unit in a common interest community association at the  
6 time of his or her appointment.

7 (3) Initially, 5 members shall serve for 5-year terms  
8 and 4 members for 4-year terms. Thereafter, terms shall be  
9 for 5 years. Upon expiration of his or her term of office,  
10 a member shall serve until his or her successor is  
11 appointed. Any vacancy occurring during a term shall be  
12 filled by appointment by the Governor, with the advice and  
13 consent of the Senate, for the unexpired term. The Governor  
14 shall remove from the Commission any member whose license  
15 has become void or has been revoked or suspended and may  
16 remove any member of the Commission for neglect of duty,  
17 misconduct, or incompetence.

18 (4) The presence of two-thirds of the full Commission  
19 shall constitute a quorum for the transaction of business.  
20 Action shall be taken only upon the majority vote of a  
21 quorum, except regarding disciplinary actions which shall  
22 require a unanimous vote of a quorum.

23 (5) The provisions of Illinois law concerning the  
24 termination schedule for regulatory bodies of the State of  
25 Illinois are applicable to the Commission created by this  
26 Section.

1           (6) Any member of the Commission, any attorney  
2           providing advice to the Commission, any person acting as a  
3           consultant to the Commission, and any witness testifying in  
4           a proceeding authorized under this Act, excluding the party  
5           making the complaint, is immune from liability in any civil  
6           action brought against him or her for acts occurring while  
7           acting in his or her capacity as a commissioner,  
8           consultant, or witness, if the individual was acting in  
9           good faith within the scope of his or her respective  
10           capacity, made a reasonable effort to obtain the facts of  
11           the matter as to which he or she acted, and acted in the  
12           reasonable belief that the action taken by him or her was  
13           warranted by the facts.

14           (e) Powers and duties of Commission. The Commission has the  
15           power and duty to:

16           (1) Elect annually from among its members a chairperson  
17           and prescribe the duties of that office.

18           (2) Make such rules and regulations, not inconsistent  
19           with the laws of the State of Illinois, as may be necessary  
20           for the orderly conduct of its affairs and for the  
21           administration of this Act, except that no disciplinary  
22           action shall be taken without affording due process and in  
23           conformity with the rules of civil and or criminal evidence  
24           of the State of Illinois.

25           (3) Enforce rules of professional conduct for  
26           community managers.

1           (4) Develop appropriate administrative enforcement  
2           procedures for violations of the rules of professional  
3           conduct.

4           (5) Prescribe forms for and receive applications for  
5           licenses and grant licenses and reinstatements.

6           (6) Approve examinations to be given to applicants.

7           (7) Issue licenses and renewals as provided in this  
8           Section.

9           (8) Impose disciplinary actions in the manner  
10           prescribed in this Section.

11           (9) Maintain a record of all licenses, suspensions, and  
12           revocations, and of its own proceedings.

13           (10) Collect all fees prescribed by this Section.

14           (11) Make rules consistent with this Act to determine  
15           the criteria to be included in the State examination and to  
16           administer or cause to be administered the State  
17           examination.

18           (12) Administer this Section, including the power to  
19           hire necessary staff.

20           (f) Disciplinary action. A community manager is subject to  
21           disciplinary action if the community manager commits any of the  
22           following:

23           (1) A felony or offense involving moral turpitude or  
24           unprofessional conduct. "Unprofessional conduct" means  
25           violating the provisions of an order of this Commission, an  
26           agreement with the Commission, or this Act.

1           (2) Fails to cooperate with the Commission in the  
2           investigation of a complaint, including without  
3           limitation, failure to produce any document, book, or  
4           record in the possession or control of the community  
5           manager after the Commission requests production of that  
6           document, book, or record in the course of an investigation  
7           of a complaint.

8           (3) Disciplinary action taken by the Commission may  
9           consist of one or more of the following:

10                   (i) revocation or suspension of license;

11                   (ii) refusal to renew or reinstate license;

12                   (iii) placement of the community manager on  
13                   probation for a reasonable period of time;

14                   (iv) issuance of reprimand or censure to the  
15                   community managers; and

16                   (v) impose a reasonable fine not to exceed \$2,500.

17           (g) Fees.

18           (1) A fee not to exceed \$100, as determined by the  
19           Commission, shall be paid for each application made to the  
20           Commission, whether the application is for examination or  
21           reexamination or for issuance, renewal, reactivation, or  
22           reinstatement of a license, or any other application  
23           requiring formal action or consideration by the  
24           Commission.

25           (2) All fees shall be paid to the Commission or its  
26           authorized representative and are to be paid by the



1 applicant in advance of examination dates or of any action  
2 by the Commission.

3 (3) To further support the funding of the Commission  
4 and the administration of this license program, all  
5 community associations registered as Illinois  
6 not-for-profit corporations shall pay an annual fee to the  
7 Commission of \$1 per unit per year with a minimum of \$50  
8 for a community association.

9 (4) Fees shall not increase more than the increase in  
10 the Midwest Area all items all urban Consumer Price Index.

11 (h) Disposition of fees. All fees shall be transmitted to  
12 the State Treasurer, for deposit into the Community Manager  
13 License Fund, a special fund in the State treasury established  
14 to support the license program pursuant to Illinois laws, and  
15 the General Assembly shall make annual appropriations from the  
16 Fund for the expenditures of the Commission incurred in the  
17 performance of its duties under this Act, which expenditures  
18 shall be made out of those appropriations upon vouchers and  
19 warrants drawn pursuant to law.

20 (i) Requirements. Before applying to take the State license  
21 examination, an individual must meet these requirements:

22 (1) shall have attained the age of 21 and be a citizen  
23 of the United States;

24 (2) shall not be a convicted felon; and

25 (3) shall either (i) pass an exam covering the  
26 fundamentals of community association management,

1 including the Illinois Condominium Property Act, the  
2 Illinois Not-for-Profit Corporation Act, and any other  
3 laws the Commission deems appropriate as it relates to  
4 community association management; or (ii) furnish evidence  
5 satisfactory to the Commission establishing, by experience  
6 or education, that the individual is qualified to hold a  
7 license.

8 For purposes of this Act, any individual who has practiced  
9 management of community associations in the State of Illinois  
10 for a period of at least 5 years as of the effective date of  
11 this amendatory Act of the 95th General Assembly shall be  
12 deemed to be qualified and exempt from the requirements of the  
13 examination.

14 (j) License; issuance; renewal; reactivation;  
15 reinstatement.

16 (1) A license shall be granted by the Commission to any  
17 applicant:

18 (i) who has completed the requirements of  
19 subsection (i); and

20 (ii) who further meets the requirements of this  
21 Section.

22 (2) All licenses shall expire every 4 years on a date  
23 established by the Commission, but may be renewed upon the  
24 payment of the renewal fee authorized by the Commission.

25 (3) Any person may reactivate an expired license within  
26 a one-year grace period after the date of its expiration by

1 making written application for reactivation and paying a  
2 reactivation fee imposed by the Commission.

3 (4) If a person fails to reactivate his or her license  
4 within the one-year grace period specified in subparagraph  
5 (3), the person may reinstate the license within 4 years  
6 after the date of the expiration of the grace period by  
7 making written application for reinstatement, paying a  
8 reinstatement fee, and providing proof to the Commission of  
9 his or her continued professional competence as required by  
10 the Commission. Thereafter, a person shall not be  
11 reinstated unless he or she fulfills and meets the  
12 requirements and conditions required of an applicant  
13 applying for the issuance of an original license, which  
14 requirements shall include retaking and passing the State  
15 license examination.

16 (5) Any person who performs community association  
17 management services after the expiration of his or her  
18 license shall be practicing in violation of this Act and  
19 shall be subject to the sanctions authorized by this Act.  
20 The Commission may refuse to reactivate or reinstate any  
21 expired license for conduct that constitutes a violation of  
22 any provision of this Act.

23 (k) Fidelity bonds and segregation of accounts.

24 (1) A license holder or the firm with whom the license  
25 holder is employed shall not solely and exclusively have  
26 access to and disburse funds of a community association

1 unless:

2 (i) There is a fidelity bond in place.

3 (ii) The fidelity bond is in an amount not less  
4 than all moneys of that association.

5 (iii) The fidelity bond covers the license holder  
6 and all partners, officers, and employees of the firm  
7 with whom the license holder is employed during the  
8 term of the bond as well as the association officers,  
9 directors, and employees of each community association  
10 they service.

11 (iv) The insurance company issuing the bond may not  
12 cancel or refuse to renew the bond without giving not  
13 less than 10 day's prior written notice.

14 (v) The association shall secure and pay for the  
15 bond.

16 (2) A license holder who provides community  
17 association management services for more than one  
18 community association shall maintain separate, segregated  
19 accounts for each community association. The funds shall  
20 not, in any event, be commingled with the license holder's  
21 or firm's funds or with the funds of any other community  
22 association. The maintenance of these accounts by the  
23 license holder shall be custodial, and such accounts shall  
24 be in the name of the respective community association.

25 (1) Exempt persons. Except as otherwise provided, this  
26 Section does not apply to:

1           (1) A licensed attorney acting solely as an incident to  
2           the practice of law.

3           (2) Any person acting as a receiver, trustee in  
4           bankruptcy, administrator, executor, or guardian acting  
5           under a court order or under the authority of a will or of  
6           a trust instrument.

7           (3) Employees of a developer and an affiliated  
8           management company of a developer.

9           (4) Managers of commercial or other non-residential  
10           condominiums.

11           (m) Standing. Only the duly appointed or elected governing  
12           body of a common interest community association based upon a  
13           duly adopted resolution shall have standing to file a complaint  
14           before the Commission.

15           (n) Defamation. Notwithstanding anything to the contrary  
16           in this Section, it shall not be a defense in any defamation  
17           suit brought by a manager or management company that a manager  
18           or management company is deemed a public or limited public  
19           figure.

20           Section 95. The State Finance Act is amended by adding  
21           Section 5.708 as follows:

22           (30 ILCS 105/5.708 new)

23           Sec. 5.708. The Community Manager License Fund.

24           Section 99. Effective date. This Act takes effect July 1,

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1 2009.