



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1579

Introduced 2/19/2009, by Sen. A. J. Wilhelmi

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.31 new

30 ILCS 105/5.719 new

765 ILCS 605/18.7 rep.

Creates the Community Association Manager Act. Provides for the licensure of community association managers by the Department of Financial and Professional Regulation. Provides that no person may provide services as a community association manager to community associations in this State after January 1, 2011, unless he or she holds a current and valid license issued by the Department or is otherwise exempt from licensure under this Act. Creates the Community Association Manager Regulatory Commission. Sets forth provisions concerning qualifications for licensure, grounds for discipline under the Act, and certain administrative fees and procedures. Imposes conditions on any rulemaking authority. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2021. Amends the State Finance Act to create the Community Manager License Fund. Effective immediately.

LRB096 10910 ASK 21156 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning professions and occupations.

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

4 Section 1. Short title. This Act may be cited as the
5 Community Association Manager Act.

6 Section 5. Legislative intent. It is the intent of the
7 General Assembly that this Act provide for the regulation of
8 managers of community associations, ensure that those who hold
9 themselves out as possessing professional qualifications to
10 engage in the provision of community association management
11 services are, in fact, qualified to render management services
12 of a professional nature, and provide for the maintenance of
13 high standards of professional conduct by those licensed as
14 community association managers.

15 Section 10. Definitions. In this Act:

16 "Commission" means the Community Association Manager
17 Regulatory Commission.

18 "Community association" means an association in which
19 membership is a condition of ownership or shareholder interest
20 of a unit in a condominium, cooperative, townhouse, villa, or
21 other residential unit which is part of a residential
22 development plan and that is authorized to impose an

1 assessment, rents, or other costs that may become a lien on the
2 unit or lot.

3 "Community association manager" means an individual who
4 administers for remuneration the financial, administrative,
5 maintenance, or other duties for the community association,
6 including the following services: (A) collecting, controlling
7 or disbursing funds of the community association or having the
8 authority to do so; (B) preparing budgets or other financial
9 documents for the community association; (C) assisting in the
10 conduct of community association meetings; (D) maintaining
11 association records; and (E) administering association
12 contracts, as stated in the declaration, by-laws, proprietary
13 lease, declaration of covenants, or other governing document of
14 the community association. "Community association manager"
15 does not mean support staff, including, but not limited to
16 bookkeepers, administrative assistants, secretaries, property
17 inspectors, or customer service representatives.

18 "Department" means the Department of Financial and
19 Professional Regulation.

20 "License" means the license issued to a person to act as a
21 community association manager under this Act.

22 "Licensee" means a person to whom a license has been issued
23 under this Act.

24 Section 15. License required. No person may provide
25 services as a community association manager to community

1 associations in this State after January 1, 2011, unless he or
2 she holds a current and valid license issued by the Department
3 or is otherwise exempt from licensure under this Act.

4 Section 20. Exemptions; distinction from real estate
5 license.

6 (a) This Act does not apply to any of the following:

7 (1) Any director, officer, or member of a community
8 association providing one or more of the services of a
9 community association manager without compensation for
10 such services to the association.

11 (2) Any person providing one or more of the services
12 of a community association manager to a community
13 association of 10 units or less.

14 (3) A licensed attorney acting solely as an incident to
15 the practice of law.

16 (4) A person acting as a receiver, trustee in
17 bankruptcy, administrator, executor, or guardian acting
18 under a court order or under the authority of a will or of
19 a trust instrument.

20 (b) A licensed community association manager may not
21 perform or engage in any activities for which a real estate
22 broker or real estate salesperson's license is required under
23 the Real Estate License Act of 2000, unless he or she also
24 possesses a current license under the Real Estate License Act
25 of 2000 and is providing those services as provided for in that

1 Act and the applicable rules.

2 Section 25. Community Association Manager Regulatory
3 Commission.

4 (a) There is hereby created the Community Association
5 Manager Regulatory Commission, which shall consist of 7 members
6 appointed by the Governor, with the advice and consent of the
7 Senate. All members must be residents of the State and must
8 have resided in the State for at least 5 years immediately
9 preceding the date of appointment. Five members of the
10 Commission must be licensees under this Act, except that,
11 initially, these members must meet the qualifications for
12 licensure and must obtain a license within 6 months after the
13 rules to administer this Act are adopted by the Department. Two
14 members of the Commission shall be owners or shareholders of a
15 unit in a community association at the time of appointment who
16 are not licensees under this Act.

17 (b) Commission members shall serve for terms of 5 years,
18 except that, initially, 4 members shall serve for 5 years and 3
19 members shall serve for 3 years. All members shall serve until
20 his or her successor is appointed and qualified. All vacancies
21 shall be filled in like manner for the unexpired term. The
22 Governor shall remove from the Commission any member whose
23 license has become void or has been revoked or suspended and
24 may remove any member of the Commission for neglect of duty,
25 misconduct, or incompetence.

1 (c) The presence of two-thirds of the full Commission shall
2 constitute a quorum for the transaction of business. Action
3 shall only be taken upon the majority vote of a quorum, except
4 regarding disciplinary actions, which shall require a
5 unanimous vote of a quorum.

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

18 Section 30. Powers and duties of the Department. The
19 Department shall exercise the powers and duties prescribed by
20 the Civil Administrative Code of Illinois for the
21 administration of licensure Acts and shall exercise other
22 powers and duties necessary for effectuating the purposes of
23 this Act.

24 Section 35. Powers and duties of the Commission. The

1 Commission may perform each of the following:

2 (1) Elect annually from among its members a chairperson
3 and prescribe the duties of such office.

4 (2) Assist the Department in the following matters:

5 (A) enforcing the rules of professional conduct as
6 stated under this Act;

7 (B) developing appropriate administrative
8 enforcement procedures for violations of the rules of
9 professional conduct;

10 (C) providing forms and receiving applications for
11 licensure;

12 (D) creating examinations to be given to
13 applicants;

14 (E) issuing licenses and renewals as provided
15 under this Act;

16 (F) imposing disciplinary actions in the manner
17 prescribed under this Act; and

18 (G) determining the criteria to be included in the
19 State examination and to administer or cause to be
20 administered the State examination.

21 Section 40. Qualifications.

22 (a) No person shall be qualified for licensure under this
23 Act, unless he or she meets all of the following
24 qualifications:

25 (1) He or she is at least 21 years of age.

1 (2) He or she is a United States citizen.

2 (3) He or she has not been convicted of a felony.

3 (4) He or she provides satisfactory evidence to the
4 Commission of having completed at least 20 classroom hours
5 in community association management courses approved by
6 the Commission.

7 (5) He or she has successfully completed an examination
8 covering the fundamentals of community association
9 management, including the Condominium Property Act, the
10 General Not For Profit Corporation Act of 1986, and any
11 other statutes that the Commission deems appropriate as it
12 relates to community association management.

13 (6) He or she has not had a license suspended or
14 revoked in any jurisdiction as a community association
15 manager; or the comparable category of Licensee, or been
16 convicted of any offense in any jurisdiction arising from
17 actions as a community association manager.

18 (b) Notwithstanding the provisions of subsection (a) of
19 this Section:

20 (1) the education requirement to qualify for the
21 licensing examination does not apply to persons holding a
22 real estate broker or real estate salesperson license
23 issued under the Real Estate License Act of 2000; and

24 (2) the examination and initial education requirement
25 shall not apply to persons who, within 6 months after the
26 rules to administer this Act are adopted by the Department,

1 apply for a license by providing satisfactory evidence to
2 the Department and the Commission of qualifying experience
3 or education, including without limitation evidence that
4 he or she has (A) practiced community association
5 management for a period of 5 years or (B) achieved a
6 designation awarded by recognized community association
7 management organizations in the State.

8 Section 45. Examination.

9 (a) Every person who makes application for initial
10 licensure as a community association manager shall personally
11 take and achieve a passing score on a nationally prepared and
12 administered standardized examination for the community
13 association management profession. The standardized
14 examination must be developed according to the basic principles
15 of professional testing standards utilizing psychometric
16 measurement. The examination shall be prepared by an
17 independent testing service designated by the Commission using
18 standards set forth by the National Organization for Competency
19 Assurances and shall be approved by the Department.

20 (b) The designated independent testing service shall
21 conduct the examinations at such times and places as the
22 Commission shall approve.

23 (c) An applicant shall be eligible to take the examination
24 only after successfully completing the education requirements
25 set forth in this Act and attaining the minimum age required

1 under this Act.

2 Section 50. Fidelity insurance; segregation of accounts.

3 (a) A licensee or the firm with which the licensee is
4 employed shall not have access to and disburse funds of a
5 community association unless each of the following conditions
6 occur:

7 (1) There is fidelity insurance in place to insure
8 against loss for theft of community association funds.

9 (2) The fidelity insurance coverage is not less than
10 all moneys under the limit of the licensee or the firm of
11 the licensee for the association.

12 (3) The fidelity insurance covers the licensee and all
13 partners, officers, and employees of the firm with whom the
14 licensee is employed during the term of the insurance
15 coverage, as well as the association officers, directors,
16 and employees.

17 (4) The insurance company issuing the fidelity
18 insurance may not cancel or refuse to renew the bond
19 without giving at least 10 days prior written notice.

20 (5) Unless an agreement between the community
21 association and the licensee or a management company
22 provides to the contrary, the association secures and pays
23 for the fidelity insurance.

24 The community association manager must be named as an
25 additional insured party on the association policy.

1 (b) A licensee who provides community association
2 management services for more than one community association
3 shall maintain separate, segregated accounts for each
4 community association or, with the consent of the association,
5 combine the accounts of one or more associations, but in that
6 event, separately account for the funds of each association.
7 The funds shall not, in any event, be commingled with the
8 licensee's or firm's funds. The maintenance of such accounts by
9 the licensee shall be custodial, and such accounts shall be in
10 the name of the respective community association or firm as the
11 agent for the association.

12 (c) The licensee or the firm of the licensee shall also
13 obtain the appropriate general liability and errors and
14 omissions insurance to cover any losses or claims against
15 community association clients.

16 Section 55. Disciplinary action.

17 (a) Disciplinary action recommended by the Commission and
18 imposed by the Department may consist of one or more of the
19 following:

20 (1) The revocation or suspension of a license.

21 (2) The refusal to renew or reinstate a license.

22 (3) The placement of the community association manager
23 on probation for a reasonable period of time.

24 (4) The issuance of a reprimand or a censor to the
25 community association manager.

1 (5) The imposition of a reasonable fine.

2 (b) A community association manager is subject to
3 disciplinary action if the community association manager
4 commits any of the following:

5 (1) A felony or offense involving moral turpitude or
6 unprofessional conduct.

7 (2) Any violation of this Act or the provisions of an
8 order of the Department or an agreement with the
9 Department.

10 (3) Failure to cooperate with the Commission in the
11 investigation of a complaint, including without limitation
12 failure to produce any document, book, or record in the
13 possession or control of the community association manager
14 after the Commission or the Department requests production
15 of such document, book, or record in the course of an
16 investigation of a complaint.

17 Section 60. Fees.

18 (a) All fees shall be deposited into the Community
19 Association Manager Licensing Fund, which is hereby created as
20 a special fund in the State treasury.

21 (b) A fee not to exceed \$100 shall be paid for each
22 application made to the Department, whether the same is an
23 application for examination or reexamination or for issuance,
24 renewal, reactivation, or reinstatement of a license or any
25 other application requiring formal action or consideration by

1 the Department.

2 (c) All fees shall be paid to the Department or its
3 authorized representative and shall be paid by the applicant in
4 advance of examination dates or of any action by the
5 Department.

6 (d) Fees imposed under this Act shall not be increased
7 within a given year by more than a percentage that exceeds the
8 percentage increase, if any, in the Consumer Price Index for
9 All Urban Consumers for the Midwest Area for all items
10 published by the U.S. Department of Labor for the 12 months
11 ending on the previous December 31.

12 Section 65. Licensure; renewal; reactivation;
13 reinstatement.

14 (a) All licenses issued under this Act shall expire every 4
15 years on a date established by the Department, but may be
16 renewed upon the payment of the renewal fee authorized by this
17 Section and satisfactory completion of mandatory continuing
18 education.

19 (b) Any person may reactivate an expired license within a
20 one-year grace period after the date of its expiration by
21 making written application for reactivation and paying a
22 reactivation fee imposed by the Department.

23 (c) In the event that a person fails to reactivate his or
24 her license within the one-year grace period specified in this
25 Section, a person may reinstate such license within 4 years

1 after the date of the expiration of the grace period by making
2 written application for reinstatement, paying a reinstatement
3 fee, and providing proof to the Department of his or her
4 continued professional competence as required by the
5 Department. Thereafter, a person shall not be reinstated unless
6 he or she fulfills and meets the requirements and conditions
7 required of an applicant applying for the issuance of an
8 original license, which requirements shall include retaking
9 and passing the licensure examination.

10 (d) Any person who performs community association
11 management services after the expiration of his or her license
12 shall be practicing in violation of this Act and be subject to
13 any of the sanctions authorized under this Act. The Department
14 may refuse to reactivate or reinstate any expired license for
15 conduct that constitutes a violation of any provision of this
16 Act.

17 Section 70. Continuing education.

18 (a) Except as otherwise provided in this Section, each
19 person who applies for renewal of his or her license as a
20 community association manager must successfully complete
21 continuing education courses approved by the Commission at the
22 rate of 4 hours per year or its equivalent or 16 hours over a 4
23 year period. No license may be renewed except upon the
24 successful completion of the required courses or their
25 equivalent as determined by the Department with the

1 recommendation of the Commission.

2 (b) The continuing education requirement for community
3 association managers shall consist of a curriculum established
4 by the Commission. In establishing the curriculum, the
5 Commission shall consider subjects that will educate licensees
6 on recent changes in applicable laws and new laws and refresh
7 the licensee in areas of community association management that
8 the Commission deems appropriate, and any other areas that the
9 Commission deems timely and applicable in order to prevent
10 violations of this Act and to protect the public.

11 (c) Individuals who complete authorized courses in the core
12 curriculum or elective courses to renew a real estate brokerage
13 or real estate salespersons license shall receive credit for
14 each course to calculate the continuing education requirement
15 to renew a community association manager license.

16 (d) The curriculum developed by the Commission shall
17 qualify as elective courses required to achieve or renew a real
18 estate brokerage or real estate salesperson's license under the
19 Real Estate License Act.

20 Section 80. Rulemaking conditions. Rulemaking authority to
21 implement this Act, if any, is conditioned on the rules being
22 adopted in accordance with all provisions of the Illinois
23 Administrative Procedure Act and all rules and procedures of
24 the Joint Committee on Administrative Rules; any purported rule
25 not so adopted, for whatever reason, is unauthorized.

1 Section 900. The Regulatory Sunset Act is amended by adding
2 Section 4.31 as follows:

3 (5 ILCS 80/4.31 new)

4 Sec. 4.31. Act repealed on January 1, 2021. The following
5 Act is repealed on January 1, 2021:

6 The Community Association Manager Act.

7 Section 905. The State Finance Act is amended by adding
8 Section 5.719 as follows:

9 (30 ILCS 105/5.719 new)

10 Sec. 5.719. The Community Association Manager Licensing
11 Fund.

12 (765 ILCS 605/18.7 rep.)

13 Section 910. The Condominium Property Act is amended by
14 repealing Section 18.7.

15 Section 999. Effective date. This Act takes effect upon
16 becoming law.