



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0271

Introduced 1/23/2009, by Rep. Elaine Nekritz

#### 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 04007 ASK 14045 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  
16 immediately.