



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2632

Introduced 1/20/2006, by Sen. John J. Cullerton

#### SYNOPSIS AS INTRODUCED:

765 ILCS 605/18.7 new  
30 ILCS 105/5.663 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, 2008.

LRB094 18806 AJO 54214 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 18.7 as follows:

6 (765 ILCS 605/18.7 new)

7 Sec. 18.7. 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  
24 as custodian of community association funds, it is further  
25 declared to be in the best interest of Illinois citizens to  
26 limit and restrict, under the circumstances set forth in this  
27 Section, the issuance of licenses to community association  
28 managers who have been certified to possess the necessary  
29 knowledge in the relevant financial, managerial, and  
30 supervisory services, or compliance with conditions  
31 established by law or contract of persons so licensed.

32 (b) Definitions. As used in this Section, unless the

1 context otherwise requires:

2 "License" means the license issued to a manager of  
3 community associations for the State.

4 "License holder" means a person to whom a license has  
5 been issued.

6 "Commission" means the Community Associations Manager  
7 Regulatory Commission.

8 "Community association" means an association in which  
9 membership is a condition of ownership or shareholder  
10 interest of a unit in a condominium, cooperative,  
11 townhouse, villa, or other residential unit that is part of  
12 a residential development plan and that is authorized to  
13 impose an assessment and other costs that may become a lien  
14 on the unit or lot.

15 "Community association manager" means an individual  
16 who administers for compensation the coordination of  
17 financial, administrative, maintenance, or other duties  
18 called for in the management contract, including  
19 individuals who are direct employees of a community  
20 association. A manager does not include support staff, such  
21 as bookkeepers, administrative assistants, secretaries,  
22 property inspectors, customer service representatives, or  
23 managers in training.

24 "Manager in training" means any individual who is  
25 training to become a manager and is under the supervision  
26 of a license holder. During the training period, a manager  
27 in training may not be licensed. A manager in training  
28 shall not have signatory authority on any community  
29 association bank account. Further, after a period of one  
30 year, a manager in training is required to be licensed by  
31 the State.

32 (c) License requirement. In order to provide community  
33 association management services to community associations in  
34 Illinois, individuals must possess a license issued by the  
35 Community Association Manager Regulatory Commission.

36 (d) Community Association Manager Regulatory Commission.

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

6           (2) Seven members of the Commission shall be license  
7           holders and residents of Illinois. Until the license  
8           program has been established and grants licenses, these  
9           members must hold the qualifications to be license holders.  
10           Each of the remaining 2 members shall be a member who does  
11           not hold a license and shall be an owner or shareholder of  
12           a unit in a common interest community association at the  
13           time of his or her appointment.

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

25           (4) The presence of two-thirds of the full Commission  
26           shall constitute a quorum for the transaction of business.  
27           Action shall be taken only upon the majority vote of a  
28           quorum, except regarding disciplinary actions which shall  
29           require a unanimous vote of a quorum.

30           (5) The provisions of Illinois law concerning the  
31           termination schedule for regulatory bodies of the State of  
32           Illinois are applicable to the Commission created by this  
33           Section.

34           (6) Any member of the Commission, any attorney  
35           providing advice to the Commission, any person acting as a  
36           consultant to the Commission, and any witness testifying in

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

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

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

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

22 (3) Enforce rules of professional conduct for  
23 community managers.

24 (4) Develop appropriate administrative enforcement  
25 procedures for violations of the rules of professional  
26 conduct.

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

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

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

32 (8) Impose disciplinary actions in the manner  
33 prescribed in this Section.

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

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

1           (11) Make rules consistent with this Act to determine  
2           the criteria to be included in the State examination and to  
3           administer or cause to be administered the State  
4           examination.

5           (12) Administer this Section, including the power to  
6           hire necessary staff.

7           (f) Disciplinary action. A community manager is subject to  
8           disciplinary action if the community manager commits any of the  
9           following:

10           (1) A felony or offense involving moral turpitude or  
11           unprofessional conduct. "Unprofessional conduct" means  
12           violating the provisions of an order of this Commission, an  
13           agreement with the Commission, or this Act.

14           (2) Fails to cooperate with the Commission in the  
15           investigation of a complaint, including without  
16           limitation, failure to produce any document, book, or  
17           record in the possession or control of the community  
18           manager after the Commission requests production of that  
19           document, book, or record in the course of an investigation  
20           of a complaint.

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

23                   (i) revocation or suspension of license;

24                   (ii) refusal to renew or reinstate license;

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

27                   (iv) issuance of reprimand or censure to the  
28                   community managers; and

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

30           (g) Fees.

31           (1) A fee not to exceed \$100, as determined by the  
32           Commission, shall be paid for each application made to the  
33           Commission, whether the application is for examination or  
34           reexamination or for issuance, renewal, reactivation, or  
35           reinstatement of a license, or any other application  
36           requiring formal action or consideration by the

1       Commission.

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

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

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

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

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

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

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

28           (3) shall either (i) pass an exam covering the  
29       fundamentals of community association management,  
30       including the Illinois Condominium Property Act, the  
31       Illinois Not-for-Profit Corporation Act, and any other  
32       laws the Commission deems appropriate as it relates to  
33       community association management; or (ii) furnish evidence  
34       satisfactory to the Commission establishing, by experience  
35       or education, that the individual is qualified to hold a  
36       license.

1 For purposes of this Act, any individual who has practiced  
2 management of community associations in the State of Illinois  
3 for a period of at least 5 years as of the effective date of  
4 this amendatory Act of the 94th General Assembly shall be  
5 deemed to be qualified and exempt from the requirements of the  
6 examination.

7 (j) License; issuance; renewal; reactivation;  
8 reinstatement.

9 (1) A license shall be granted by the Commission to any  
10 applicant:

11 (i) who has completed the requirements of  
12 subsection (i); and

13 (ii) who further meets the requirements of this  
14 Section.

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

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

22 (4) If a person fails to reactivate his or her license  
23 within the one-year grace period specified in subparagraph  
24 (3), the person may reinstate the license within 4 years  
25 after the date of the expiration of the grace period by  
26 making written application for reinstatement, paying a  
27 reinstatement fee, and providing proof to the Commission of  
28 his or her continued professional competence as required by  
29 the Commission. Thereafter, a person shall not be  
30 reinstated unless he or she fulfills and meets the  
31 requirements and conditions required of an applicant  
32 applying for the issuance of an original license, which  
33 requirements shall include retaking and passing the State  
34 license examination.

35 (5) Any person who performs community association  
36 management services after the expiration of his or her



1 license shall be practicing in violation of this Act and  
2 shall be subject to the sanctions authorized by this Act.  
3 The Commission may refuse to reactivate or reinstate any  
4 expired license for conduct that constitutes a violation of  
5 any provision of this Act.

6 (k) Fidelity bonds and segregation of accounts.

7 (1) A license holder or the firm with whom the license  
8 holder is employed shall not solely and exclusively have  
9 access to and disburse funds of a community association  
10 unless:

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

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

14 (iii) The fidelity bond covers the license holder  
15 and all partners, officers, and employees of the firm  
16 with whom the license holder is employed during the  
17 term of the bond as well as the association officers,  
18 directors, and employees of each community association  
19 they service.

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

23 (v) The association shall secure and pay for the  
24 bond.

25 (2) A license holder who provides community  
26 association management services for more than one  
27 community association shall maintain separate, segregated  
28 accounts for each community association. The funds shall  
29 not, in any event, be commingled with the license holder's  
30 or firm's funds or with the funds of any other community  
31 association. The maintenance of these accounts by the  
32 license holder shall be custodial, and such accounts shall  
33 be in the name of the respective community association.

34 (l) Exempt persons. Except as otherwise provided, this  
35 Section does not apply to:

36 (1) A licensed attorney acting solely as an incident to

1 the practice of law.

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

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

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

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

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

19 Section 95. The State Finance Act is amended by adding  
20 Section 5.663 as follows:

21 (30 ILCS 105/5.663 new)

22 Sec. 5.663. The Community Manager License Fund.

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.