



Rep. Elaine Nekritz

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1 AMENDMENT TO SENATE BILL 1579

2 AMENDMENT NO. _____. Amend Senate Bill 1579 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Community Association Manager Licensing and Disciplinary 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. As used in this Act:

1 "Address of record" means the designated address recorded
2 by the Department in the applicant's or licensee's application
3 file or license file maintained by the Department's licensure
4 maintenance unit. It is the duty of the applicant or licensee
5 to inform the Department of any change of address, and such
6 changes must be made either through the Department's website or
7 by contacting the Department's licensure maintenance unit.

8 "Advertise" means, but is not limited to, issuing or
9 causing to be distributed any card, sign or device to any
10 person; or causing, permitting or allowing any sign or marking
11 on or in any building, structure, newspaper, magazine or
12 directory, or on radio or television; or advertising by any
13 other means designed to secure public attention.

14 "Board" means the Illinois Community Association Manager
15 Licensing and Disciplinary Board.

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

23 "Community Association Management Agency" means a company,
24 firm, corporation, limited liability company, or other entity
25 that engages in the community association management business
26 and employs, in addition to the licensee-in-charge, at least

1 one other person in conducting such business.

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

21 "Department" means the Department of Financial and
22 Professional Regulation.

23 "License" means the license issued to a person to act as a
24 community association manager under this Act or other authority
25 to practice issued under this Act.

26 "Person" means any individual, firm, corporation,

1 partnership, organization, or body politic.

2 "Licensee-in-charge" means a person licensed as a
3 community association manager who has been designated by a
4 Community Association Management Agency as the full-time
5 management employee or owner who assumes sole responsibility
6 for maintaining all records required by this Act and who
7 assumes sole responsibility for assuring the licensed agency's
8 compliance with its responsibilities as stated in the Act.

9 "Secretary" means the Secretary of Financial and
10 Professional Regulation.

11 Section 15. License required. Beginning 12 months after
12 the adoption of rules providing for the licensure of a
13 community association manager in Illinois under this Act, it
14 shall be unlawful for any person, entity, or other business to
15 provide community association management services or provide
16 services as community association manager to any community
17 association in this State, unless he or she holds a current and
18 valid license issued licensed by the Department or is otherwise
19 exempt from licensure under this Act.

20 Section 20. Exemptions.

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

22 (1) Any director, officer, or member of a community
23 association providing one or more of the services of a
24 community association manager without compensation for

1 such services to the association.

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

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

7 (4) A person acting as a receiver, trustee in
8 bankruptcy, administrator, executor, or guardian acting
9 under a court order or under the authority of a will or of
10 a trust instrument.

11 (5) A person licensed in this State under any other Act
12 from engaging the practice for which he or she is licensed.

13 (b) A licensed community association manager may not
14 perform or engage in any activities for which a real estate
15 broker or real estate salesperson's license is required under
16 the Real Estate License Act of 2000, unless he or she also
17 possesses a current license under the Real Estate License Act
18 of 2000 and is providing those services as provided for in the
19 Act and the applicable rules.

20 (c) A person may act as, or provide services as, a
21 community association manager without being licensed under
22 this Act if the person (i) is a community association manager
23 regulated under the laws of another state or territory of the
24 United States or another country and (ii) has applied in
25 writing to the Department, on forms prepared and furnished by
26 the Department, for licensure under this Act, but only until

1 the expiration of 6 months after the filing of his or her
2 written application to the Department, his or her withdrawal of
3 the application, he or she has received a notice of intent to
4 deny the application from the Department, or the denial of the
5 application by the Department.

6 Section 25. Community Association Manager Licensing and
7 Disciplinary Board.

8 (a) There is hereby created the Community Association
9 Manager Board, which shall consist of 7 members appointed by
10 the Secretary. All members must be residents of the State and
11 must have resided in the State for at least 5 years immediately
12 preceding the date of appointment. Five members of the Board
13 must be licensees under this Act, except that, initially, these
14 members must meet the qualifications for licensure and have
15 obtained a license within 6 months after the effective date of
16 this Act. Two members of the Board shall be owners or
17 shareholders of a unit in a community association at the time
18 of appointment who are not licensees under this Act and have no
19 direct affiliation or work experience with the community
20 association manager. This Board shall act in an advisory
21 capacity to the Department.

22 (b) Board members shall serve for terms of 5 years, except
23 that, initially, 4 members shall serve for 5 years and 3
24 members shall serve for 4 years. All members shall serve until
25 his or her successor is appointed and qualified. All vacancies

1 shall be filled in like manner for the unexpired term. No
2 member shall serve for more than 2 successive terms. The
3 Secretary shall remove from the Board any member whose license
4 has become void or has been revoked or suspended and may remove
5 any member of the Board for neglect of duty, misconduct, or
6 incompetence. A member subject to formal disciplinary
7 proceedings shall disqualify himself or herself from all Board
8 business until the charge is resolved. A member also shall
9 disqualify himself or herself from any matter on which the
10 member cannot act objectively.

11 (c) A majority of the Board members currently appointed
12 shall constitute a quorum. A vacancy in the membership of the
13 Board shall not impair the right of a quorum to exercise all
14 the rights and perform all the duties of the Board.

15 (d) The Board may elect a chairperson and vice chairperson.

16 (e) Each member shall receive reimbursement as set by the
17 Governor's Travel Control Board for expenses incurred in
18 carrying out the duties as a Board member. The Board shall be
19 compensated as determined by the Secretary.

20 (f) The Board may recommend policies, procedures, and rules
21 relevant to the administration and enforcement of this Act.

22 Section 27. Immunity from Liability. Any member of the
23 Board, any attorney providing advice to the Board or
24 Department, any person acting as a consultant to the Board or
25 Department, and any witness testifying in a proceeding

1 authorized under this Act, excluding the party making the
2 complaint, shall be immune from liability in any civil action
3 brought against him or her for acts occurring while acting in
4 his or her capacity as a Board member, consultant, or witness,
5 respectively, unless the conduct that gave rise to the action
6 was willful or wanton misconduct.

7 Section 30. Powers and duties of the Department. The
8 Department may exercise the following functions, powers and
9 duties:

10 (a) formulate rules for the administration and enforcement
11 of this Act;

12 (b) prescribe forms to be issued for the administration and
13 enforcement of this Act;

14 (c) conduct hearings or proceedings to refuse to issue,
15 renew, suspend, revoke, place on probation, reprimand, or take
16 disciplinary or non-disciplinary action as the Department may
17 deem appropriate under this Act;

18 (d) maintain a roster of the names and addresses of all
19 licensees in a manner as deemed appropriate by the Department;
20 and

21 (e) seek the advice and expert knowledge of the Board on
22 any matter relating to the administration and enforcement of
23 this Act.

24 Section 32. Social Security Number on license application.

1 In addition to any other information required to be contained
2 in the application, every application for an original, renewal,
3 or restored license under this Act shall include the
4 applicant's Social Security Number.

5 Section 35. Functions and powers of the Board. Subject to
6 the provisions of this Act, the Board shall exercise, in an
7 advisory capacity, the following functions and powers:

8 (1) make recommendations regarding rules for the
9 administration and enforcement of this Act, including, but
10 not limited to, experience, education, licensure,
11 disciplinary standards and procedures, renewal and
12 restoration requirements;

13 (2) make recommendations regarding subjects, topics
14 and areas needed for the examination in order to fairly
15 ascertain the fitness and qualifications of applicants for
16 licensure; and

17 (3) make recommendations regarding discipline as
18 provided for in this Act.

19 Section 40. Qualifications for licensure as a community
20 association manager.

21 (a) No person shall be qualified for licensure under this
22 Act, unless he or she has applied in writing on the prescribed
23 forms and has paid the required, nonrefundable fees and meets
24 all of the following qualifications:

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

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

5 (3) He or she has passed an examination authorized by
6 the Department.

7 (4) He or she has not committed an act or acts, in this
8 or any other jurisdiction, that would be a violation of
9 this Act.

10 (5) He or she is of good moral character. Good moral
11 character is a continuing requirement of licensure.
12 Conviction of crimes other than felonies may be used in
13 determining moral character, but shall not constitute an
14 absolute bar to licensure.

15 (6) He or she has not been declared by any court of
16 competent jurisdiction to be incompetent by reason of
17 mental or physical defect or disease, unless a court has
18 subsequently declared him or her to be competent.

19 (7) He or she complies with any additional
20 qualifications for licensure as determined by rule of the
21 Department.

22 (b) The education requirement set forth in item (2) of
23 subsection (a) of this Section shall not apply to persons
24 holding a real estate broker or real estate salesperson license
25 in good standing issued under the Real Estate License Act of
26 2000.

1 (c) The examination and initial education requirement of
2 items (2) and (3) of subsection (a) of this Section shall not
3 apply to any person who within 6 months from the effective date
4 of the requirement for licensure, as set forth in Section 170
5 of this Act, applies for a license by providing satisfactory
6 evidence to the Department of qualifying experience or
7 education, as may be set forth by rule, including without
8 limitation evidence that he or she has (i) practiced community
9 association management for a period of 5 years or (ii) achieved
10 a designation awarded by recognized community association
11 management organizations in the State.

12 (d) Applicants have 3 years from the date of application to
13 complete the application process. If the process has not been
14 completed within the 3 years, the application shall be denied,
15 the fee shall be forfeited, and the applicant must reapply and
16 meet the requirements in effect at the time of re-application.

17 Section 45. Examinations.

18 (a) The Department shall authorize examinations of
19 applicants for licensure as a community association manager at
20 such times and places as it may determine. The examination of
21 applicants shall be of a character to give a fair test of the
22 qualifications of the applicant to practice as a community
23 association manager.

24 (b) Applicants for examination shall be required to pay,
25 either to the Department or the designated testing service, a

1 fee covering the cost of providing the examination.

2 (c) The Department may employ consultants for the purpose
3 of preparing and conducting examinations.

4 (d) An applicant shall be eligible to take the examination
5 only after successfully completing the education requirements
6 set forth in this Act and attaining the minimum age required
7 under this Act.

8 (e) The examination approved by the Department should
9 utilize the basic principles of professional testing standards
10 utilizing psychometric measurement. The examination shall use
11 standards set forth by the National Organization for Competency
12 Assurances and shall be approved by the Department.

13 Section 50. Community Association Management Agency.

14 (a) No firm, corporation, limited liability company, or
15 other legal entity shall provide or offer to provide community
16 association management services, unless such services are
17 provided through:

18 (1) an employee or independent contractor who is
19 licensed under this Act;

20 (2) a natural person who is acting under the direct
21 supervision of an employee of such firm, corporation,
22 limited liability company, or other legal entity that is
23 licensed under this Act; or

24 (3) a natural person who is legally-authorized to
25 provide such services.

1 (b) Any firm, corporation, limited liability company, or
2 other legal entity that is providing, or offering to provide,
3 community association management services and is not in
4 compliance with Section 50 and the provisions of this Act shall
5 be subject to the fines, injunctions, cease desist provisions,
6 and penalties provided for in Sections 90, 92, and 155 of this
7 Act.

8 (c) No community association manager may be the
9 licensee-in-charge for more than one firm, corporation,
10 limited liability company, or other legal entity.

11 Section 55. Fidelity insurance; segregation of accounts.

12 (a) A community association manager or the Community
13 Association Management Agency with which he or she is employed
14 shall not have access to and disburse funds of a community
15 association unless each of the following conditions occur:

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

18 (2) The fidelity insurance is not less than all moneys
19 under the control of the community association manager or
20 the employing Community Association Management Agency for
21 the association.

22 (3) The fidelity insurance covers the community
23 association manager and all partners, officers, and
24 employees of the Community Association Management Agency
25 with whom he or she is employed during the term of the

1 insurance coverage, as well as the association officers,
2 directors, and employees.

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

6 (5) Unless an agreement between the community
7 association and the community association manager or the
8 Community Association Management Agency provides to the
9 contrary, the Association secures and pays for the fidelity
10 insurance. The community association manager and the
11 Community Association Management Agency must be named as
12 additional insured parties on the association policy.

13 (b) A community association manager or Community
14 Association Management Agency that provides community
15 association management services for more than one community
16 association shall maintain separate, segregated accounts for
17 each community association or, with the consent of the
18 association, combine the accounts of one or more associations,
19 but in that event, separately account for the funds of each
20 association. The funds shall not, in any event, be commingled
21 with the community association manager's or Community
22 Association Management Agency's funds. The maintenance of such
23 accounts shall be custodial, and such accounts shall be in the
24 name of the respective community association or community
25 association manager or Community Association Management Agency
26 as the agent for the association.

1 (c) The community association manager or Community
2 Association Management Agency shall obtain the appropriate
3 general liability and errors and omissions insurance, as
4 determined by the Department, to cover any losses or claims
5 against community association clients.

6 (d) The Department shall have authority to promulgate
7 additional rules regarding insurance, fidelity insurance and
8 all accounts maintained and to be maintained by a community
9 association manager or Community Association Management
10 Agency.

11 Section 60. Licenses; renewals; restoration; person in
12 military service.

13 (a) The expiration date and renewal period for each license
14 issued under this Act shall be set by rule. The Department may
15 promulgate rules requiring continuing education and set all
16 necessary requirements for such, including but not limited to
17 fees, approved coursework, number of hours, and waivers of
18 continuing education.

19 (b) Any licensee who has permitted his or her license to
20 expire may have the license restored by making application to
21 the Department and filing proof acceptable to the Department of
22 fitness to have his or her license restored, by which may
23 include sworn evidence certifying to active practice in another
24 jurisdiction satisfactory to the Department, complying with
25 any continuing education requirements, and paying the required

1 restoration fee.

2 (c) If the person has not maintained an active practice in
3 another jurisdiction satisfactory to the Department, the
4 Department shall determine, by an evaluation program
5 established by rule, the person's fitness to resume active
6 status and may require the person to complete a period of
7 evaluated clinical experience and successful completion of a
8 practical examination. However, any person whose license
9 expired while (i) in federal service on active duty with the
10 Armed Forces of the United States or called into service or
11 training with the State Militia or (ii) in training or
12 education under the supervision of the United States
13 preliminary to induction into the military service may have his
14 or her license renewed or restored without paying any lapsed
15 renewal fees if, within 2 years after honorable termination of
16 the service, training or education, except under condition
17 other than honorable, he or she furnishes the Department with
18 satisfactory evidence to the effect that he or she has been so
19 engaged and that the service, training, or education has been
20 so terminated.

21 (d) A community association manager who notifies the
22 Department, in writing on forms prescribed by the Department,
23 may place his or her license on inactive status and shall be
24 excused from the payment of renewal fees until the person
25 notifies the Department in writing of the intention to resume
26 active practice.

1 (e) A community association manager requesting his or her
2 license be changed from inactive to active status shall be
3 required to pay the current renewal fee and shall also
4 demonstrate compliance with the continuing education
5 requirements.

6 (f) Any license is nonrenewed or on inactive status shall
7 provide community association management services or provide
8 services as community association manager as set forth in this
9 Act.

10 (g) Any person violating subsection (f) of this Section
11 shall be considered to be practicing without a license and will
12 be subject to the disciplinary provisions of this Act.

13 Section 65. Fees; Community Association Manager Licensing
14 and Disciplinary Fund.

15 (a) The fees for the administration and enforcement of this
16 Act, including, but not limited to, initial licensure, renewal,
17 and restoration, shall be set by rule of the Department. The
18 fees shall be nonrefundable.

19 (b) In addition to the application fee, applicants for the
20 examination are required to pay, either to the Department or
21 the designated testing service, a fee covering the cost of
22 determining an applicant's eligibility and providing the
23 examination. Failure to appear for the examination on the
24 scheduled date, at the time and place specified, after the
25 applicant's application and fee for examination have been

1 received and acknowledged by the Department or the designated
2 testing service, shall result in the forfeiture of the fee.

3 (c) To support the costs of administering this Act, all
4 community associations that have 10 or more units and are
5 registered in this State as not-for-profit corporations shall
6 pay to the Department an annual fee of \$50 plus an additional
7 \$1 per unit. The Department may establish forms and promulgate
8 any rules for the effective collection of such fees under this
9 subsection (c).

10 Any not-for-profit corporation in this State that fails to
11 pay in full to the Department all fees owed under this
12 subsection (c) shall be subject to the penalties and procedures
13 provided for under Section 92 of this Act.

14 (d) All fees, fines, penalties, or other monies received or
15 collected pursuant to this Act shall be deposited in the
16 Community Association Manager Licensing and Disciplinary Fund.

17 Section 70. Penalty for insufficient funds; payments. Any
18 person who delivers a check or other payment to the Department
19 that is returned to the Department unpaid by the financial
20 institution upon which it is drawn shall pay to the Department,
21 in addition to the amount already owed to the Department, a
22 fine of \$50. The Department shall notify the person that
23 payment of fees and fines shall be paid to the Department by
24 certified check or money order within 30 calendar days after
25 notification. If, after the expiration of 30 days from the date

1 of the notification, the person has failed to submit the
2 necessary remittance, the Department shall automatically
3 terminate the license or deny the application, without hearing.
4 If, after termination or denial, the person seeks a license, he
5 or she shall apply to the Department for restoration or
6 issuance of the license and pay all fees and fines due to the
7 Department. The Department may establish a fee for the
8 processing of an application for restoration of a license to
9 pay all expenses of processing this application. The Secretary
10 may waive the fines due under this Section in individual cases
11 where the Secretary finds that the fines would be unreasonable
12 or unnecessarily burdensome.

13 Section 75. Endorsement. The Department may issue a
14 license as a licensed community association manager, without
15 the required examination, to an applicant licensed under the
16 laws of another state if the requirements for licensure in that
17 state are, on the date of licensure, substantially equal to the
18 requirements of this Act or to a person who, at the time of his
19 or her application for licensure, possessed individual
20 qualifications that were substantially equivalent to the
21 requirements then in force in this State. An applicant under
22 this Section shall pay all of the required fees.

23 Applicants have 3 years from the date of application to
24 complete the application process. If the process has not been
25 completed within the 3 years, the application shall be denied,

1 the fee shall be forfeited, and the applicant must reapply and
2 meet the requirements in effect at the time of reapplication.

3 Section 80. Roster. The Department shall maintain a roster
4 of names and addresses of all persons who hold valid licenses
5 and all persons whose licenses have been suspended, revoked or
6 otherwise disciplined. This roster shall be available upon
7 request and payment of the required fee as determined by the
8 Department.

9 Section 85. Grounds for discipline; refusal, revocation,
10 or suspension.

11 (a) The Department may refuse to issue or renew, or may
12 revoke a license, or may suspend, place on probation, fine, or
13 take any disciplinary or non-disciplinary action as the
14 Department may deem proper, including fines not to exceed
15 \$10,000 for each violation, with regard to any licensee for any
16 one or combination of the following causes:

17 (1) Material misstatement in furnishing information to
18 the Department.

19 (2) Violations of this Act or its rules.

20 (3) Conviction of or entry of a plea of guilty or nolo
21 contendere to any crime that is a felony under the laws of
22 the United States or any state or territory thereof or a
23 misdemeanor of which an essential element is dishonesty or
24 that is directly related to the practice of the profession.

1 (4) Making any misrepresentation for the purpose of
2 obtaining a license or violating any provision of this Act
3 or its rules.

4 (5) Professional incompetence.

5 (6) Gross negligence.

6 (7) Aiding or assisting another person in violating any
7 provision of this Act or its rules.

8 (8) Failing, within 30 days, to provide information in
9 response to a request made by the Department.

10 (9) Engaging in dishonorable, unethical, or
11 unprofessional conduct of a character likely to deceive,
12 defraud or harm the public as defined by the rules of the
13 Department, or violating the rules of professional conduct
14 adopted by the Department.

15 (10) Habitual or excessive use or addiction to alcohol,
16 narcotics, stimulants, or any other chemical agent or drug
17 that results in the inability to practice with reasonable
18 judgment, skill, or safety.

19 (11) Discipline by another state, territory, or
20 country if at least one of the grounds for the discipline
21 is the same or substantially equivalent to those set forth
22 in this Act.

23 (12) Directly or indirectly giving to or receiving from
24 any person, firm, corporation, partnership or association
25 any fee, commission, rebate, or other form of compensation
26 for any professional services not actually or personally

1 rendered.

2 (13) A finding by the Department that the licensee,
3 after having his or her license placed on probationary
4 status, has violated the terms of probation.

5 (14) Willfully making or filing false records or
6 reports relating to a licensee's practice, including but
7 not limited to false records filed any State or Federal
8 agencies or departments.

9 (15) Being named as a perpetrator in an indicated
10 report by the Department of Children and Family Services
11 under the Abused and Neglected Child Reporting Act and upon
12 proof by clear and convincing evidence that the licensee
13 has caused a child to be an abused child or neglected child
14 as defined in the Abused and Neglected Child Reporting Act.

15 (16) Physical illness or mental illness or impairment,
16 including, but not limited to, deterioration through the
17 aging process or loss of motor skill that results in the
18 inability to practice the profession with reasonable
19 judgment, skill, or safety.

20 (17) Solicitation of professional services by using
21 false or misleading advertising.

22 (18) A finding that licensure has been applied for or
23 obtained by fraudulent means.

24 (19) Practicing or attempting to practice under a name
25 other than the full name as shown on the license or any
26 other legally authorized name.

1 (20) Gross overcharging for professional services
2 including, but not limited to, (i) collection of fees or
3 moneys for services that are not rendered; and (ii)
4 charging for services that are not in accordance with the
5 contract between the licensee and the community
6 association.

7 (21) Improper commingling of personal and client funds
8 in violation of this Act or any rules promulgated thereto.

9 (22) Failing to account for or remit any moneys or
10 documents coming into the licensee's possession that
11 belong to another person or entity.

12 (23) Giving differential treatment to a person that is
13 to that person's detriment because of race, color, creed,
14 sex, religion, or national origin.

15 (24) Performing and charging for services without
16 reasonable authorization to do so from the person or entity
17 for whom service is being provided.

18 (25) Failing to make available to the Department, upon
19 request, any books, records, or forms required by this Act.

20 (26) Purporting to be a licensee-in-charge of an agency
21 without active participation in the agency.

22 (27) Failing to make available to the Department at the
23 time of the request any indicia of licensure or
24 registration issued under this Act.

25 (b) In accordance with subdivision (a) (5) of Section 15 of
26 the Department of Professional Regulation Law of the Civil

1 Administrative Code of Illinois (20 ILCS 2105/2105-15), the
2 Department shall deny a license or renewal authorized by this
3 Act to a person who has defaulted on an educational loan or
4 scholarship provided or guaranteed by the Illinois Student
5 Assistance Commission or any governmental agency of this State.

6 (c) The determination by a circuit court that a licensee is
7 subject to involuntary admission or judicial admission, as
8 provided in the Mental Health and Developmental Disabilities
9 Code, operates as an automatic suspension. The suspension will
10 terminate only upon a finding by a court that the patient is no
11 longer subject to involuntary admission or judicial admission
12 and the issuance of an order so finding and discharging the
13 patient, and upon the recommendation of the Board to the
14 Secretary that the licensee be allowed to resume his or her
15 practice as a licensed Community association manager.

16 (d) In accordance with subsection (g) of Section 15 of the
17 Department of Professional Regulation Law of the Civil
18 Administrative Code of Illinois (20 ILCS 2105/2105-15), the
19 Department may refuse to issue or renew or may suspend the
20 license of any person who fails to file a return, to pay the
21 tax, penalty, or interest shown in a filed return, or to pay
22 any final assessment of tax, penalty, or interest, as required
23 by any tax Act administered by the Department of Revenue, until
24 such time as the requirements of that tax Act are satisfied.

25 (e) In accordance with subdivision (a) (5) of Section 15 of
26 the Department of Professional Regulation Law of the Civil

1 Administrative Code of Illinois (20 ILCS 2105/2105-15) and in
2 cases where the Department of Healthcare and Family Services
3 (formerly Department of Public Aid) has previously determined
4 that a licensee or a potential licensee is more than 30 days
5 delinquent in the payment of child support and has subsequently
6 certified the delinquency to the Department may refuse to issue
7 or renew or may revoke or suspend that person's license or may
8 take other disciplinary action against that person based solely
9 upon the certification of delinquency made by the Department of
10 Healthcare and Family Services.

11 (f) In enforcing this Section, the Department or Board upon
12 a showing of a possible violation may compel an individual
13 licensed to practice under this Act, or who has applied for
14 licensure under this Act, to submit to a mental or physical
15 examination, or both, as required by and at the expense of the
16 Department. The Department or Board may order the examining
17 physician to present testimony concerning the mental or
18 physical examination of the licensee or applicant. No
19 information shall be excluded by reason of any common law or
20 statutory privilege relating to communications between the
21 licensee or applicant and the examining physician. The
22 examining physicians shall be specifically designated by the
23 Board or Department. The individual to be examined may have, at
24 his or her own expense, another physician of his or her choice
25 present during all aspects of this examination. Failure of an
26 individual to submit to a mental or physical examination, when

1 directed, shall be grounds for suspension of his or her license
2 or denial of his or her application or renewal until the
3 individual submits to the examination if the Department finds,
4 after notice and hearing, that the refusal to submit to the
5 examination was without reasonable cause.

6 If the Department or Board finds an individual unable to
7 practice because of the reasons set forth in this Section, the
8 Department or Board may require that individual to submit to
9 care, counseling, or treatment by physicians approved or
10 designated by the Department or Board, as a condition, term, or
11 restriction for continued, reinstated, or renewed licensure to
12 practice; or, in lieu of care, counseling, or treatment, the
13 Department may file, or the Board may recommend to the
14 Department to file, a complaint to immediately suspend, revoke,
15 deny, or otherwise discipline the license of the individual. An
16 individual whose license was granted, continued, reinstated,
17 renewed, disciplined or supervised subject to such terms,
18 conditions, or restrictions, and who fails to comply with such
19 terms, conditions, or restrictions, shall be referred to the
20 Secretary for a determination as to whether the individual
21 shall have his or her license suspended immediately, pending a
22 hearing by the Department.

23 In instances in which the Secretary immediately suspends a
24 person's license under this Section, a hearing on that person's
25 license must be convened by the Department within 30 days after
26 the suspension and completed without appreciable delay. The

1 Department and Board shall have the authority to review the
2 subject individual's record of treatment and counseling
3 regarding the impairment to the extent permitted by applicable
4 federal statutes and regulations safeguarding the
5 confidentiality of medical records.

6 An individual licensed under this Act and affected under
7 this Section shall be afforded an opportunity to demonstrate to
8 the Department or Board that he or she can resume practice in
9 compliance with acceptable and prevailing standards under the
10 provisions of his or her license.

11 Section 87. Suspension of license for failure to pay
12 restitution. The Department, without further process or
13 hearing, shall suspend the license or other authorization to
14 practice of any person issued under this Act who has been
15 certified by court order as not having paid restitution to a
16 person under Section 8A-3.5 of the Illinois Public Aid Code or
17 under Section 46-1 of the Criminal Code of 1961. A person whose
18 license or other authorization to practice is suspended under
19 this Section is prohibited from practicing until the
20 restitution is made in full.

21 Section 90. Violations; injunctions; cease and desist
22 orders.

23 (a) If any person violates a provision of this Act, the
24 Secretary may, in the name of the People of the State of

1 Illinois, through the Attorney General of the State of
2 Illinois, petition for an order enjoining the violation or for
3 an order enforcing compliance with this Act. Upon the filing of
4 a verified petition in court, the court may issue a temporary
5 restraining order, without notice or bond, and may
6 preliminarily and permanently enjoin the violation. If it is
7 established that the person has violated or is violating the
8 injunction, the Court may punish the offender for contempt of
9 court. Proceedings under this Section are in addition to, and
10 not in lieu of, all other remedies and penalties provided by
11 this Act.

12 (b) If any person, entity or other business may provide
13 community association management services or provide services
14 as community association manager to any community association
15 in this State without having a valid license under this Act,
16 then any licensee, any interested party or any person injured
17 thereby may, in addition to the Secretary, petition for relief
18 as provided in subsection (a) of this Section.

19 (c) Whenever in the opinion of the Department any person,
20 entity or other business violates any provision of this Act,
21 the Department may issue a rule to show because why an order to
22 cease and desist should not be entered against such person,
23 firm or other entity. The rule shall clearly set forth the
24 grounds relied upon by the Department and shall provide a
25 period of at least 7 days from the date of the rule to file an
26 answer to the satisfaction of the Department. If the person,

1 firm or other entity fails to file an answer satisfactory to
2 the Department, the matter shall be considered as a default and
3 the Department may cause an order to cease and desist to be
4 issued immediately.

5 Section 92. Unlicensed practice; violation; civil penalty.

6 (a) Any person, entity or other business who practices,
7 offers to practice, attempts to practice, or holds himself,
8 herself or itself out to practice as a community association
9 management services or provide services as community
10 association manager to any community association in this State
11 without being licensed under this Act shall, in addition to any
12 other penalty provided by law, pay a civil penalty to the
13 Department in an amount not to exceed \$10,000 for each offense,
14 as determined by the Department. The civil penalty shall be
15 assessed by the Department after a hearing is held in
16 accordance with the provisions set forth in this Act regarding
17 the provision of a hearing for the discipline of a licensee.

18 (b) The Department may investigate any and all unlicensed
19 activity.

20 (c) The civil penalty shall be paid within 60 days after
21 the effective date of the order imposing the civil penalty. The
22 order shall constitute a judgment and may be filed and
23 execution had thereon in the same manner as any judgment from
24 any court of record.

1 Section 95. Investigation; notice and hearing. The
2 Department may investigate the actions or qualifications of
3 person, entity or other business holding or claiming to hold a
4 license. Before suspending, revoking, placing on probationary
5 status, or taking any other disciplinary action as the
6 Department may deem proper with regard to any license, at least
7 30 days before the date set for the hearing, the Department
8 shall (i) notify the accused in writing of any charges made and
9 the time and place for a hearing on the charges before the
10 Board, (ii) direct the individual or entity to file a written
11 answer to the charges with the Board under oath within 20 days
12 after the service on him or her of such notice, and (iii)
13 inform the person, entity or other business that if the person,
14 entity, or other business fails to file an answer, default will
15 be taken against such person, entity, or other business and the
16 license of such person, entity, or other business may be
17 suspended, revoked, placed on probationary status, or other
18 disciplinary action taken with regard to the license, including
19 limiting the scope, nature, or extent of his or her practice,
20 as the Department may deem proper. In case the person, after
21 receiving notice, fails to file an answer, his or her license
22 may, in the discretion of the Department, be suspended,
23 revoked, placed on probationary status, or the Department may
24 take whatever disciplinary action deemed proper, including
25 limiting the scope, nature, or extent of the person's practice
26 or the imposition of a fine, without a hearing, if the act or

1 acts charged constitute sufficient grounds for such action
2 under this Act. Written notice may be served by personal
3 delivery or by registered or certified mail to the applicant or
4 licensee at his or her last address of record with the
5 Department. In case the person fails to file an answer after
6 receiving notice, his or her license may, in the discretion of
7 the Department, be suspended, revoked, or placed on
8 probationary status, or the Department may take whatever
9 disciplinary action deemed proper, including limiting the
10 scope, nature, or extent of the person's practice or the
11 imposition of a fine, without a hearing, if the act or acts
12 charged constitute sufficient grounds for such action under
13 this Act. The written answer shall be served by personal
14 delivery, certified delivery, or certified or registered mail
15 to the Department. At the time and place fixed in the notice,
16 the Department shall proceed to hear the charges and the
17 parties or their counsel shall be accorded ample opportunity to
18 present such statements, testimony, evidence, and argument as
19 may be pertinent to the charges or to the defense thereto. The
20 Department may continue such hearing from time to time. At the
21 discretion of the Secretary after having first received the
22 recommendation of the Board, the accused person's license may
23 be suspended or revoked, if the evidence constitutes sufficient
24 grounds for such action under this Act.

25 Section 100. Record of proceeding. The Department, at its

1 expense, shall preserve a record of all proceedings at the
2 formal hearing of any case involving the refusal to restore,
3 issue or renew a license, or the discipline of a licensee. The
4 notice of hearing, complaint and all other documents in the
5 nature of pleadings and written motions filed in the
6 proceedings, the transcript of testimony, the report of the
7 Board and the orders of the Department shall be the record of
8 the proceedings.

9 Section 105. Subpoenas; oaths; attendance of witnesses.
10 The Department has the power to subpoena documents, books,
11 records, or other materials and to bring before it any person
12 and to take testimony either orally, by deposition, by written
13 interrogatory, or any combination thereof, with the same fees
14 and mileage and in the same manner as prescribed in civil cases
15 in the courts of this State.

16 The Secretary, the designated hearing officer, and every
17 member of the Board has the power to administer oaths to
18 witnesses at any hearing that the Department is authorized to
19 conduct and any other oaths authorized in any Act administered
20 by the Department.

21 Any circuit court may, upon application of the Department
22 or its designee, or of the applicant or licensee against whom
23 proceedings under this Act are pending, enter an order
24 requiring the attendance of witnesses and their testimony, and
25 the production of documents, papers, files, books, records or

1 testimony in connection with any hearing or investigation. The
2 court may compel obedience to its order by proceedings for
3 contempt.

4 Section 110. Recommendations for disciplinary action. At
5 the conclusion of the hearing, the Board shall present to the
6 Secretary a written report of its findings and recommendations.
7 The report shall contain a finding whether or not the accused
8 person violated this Act or failed to comply with the
9 conditions required in this Act. The Board shall specify the
10 nature of the violation or failure to comply, and shall make
11 its recommendations to the Secretary.

12 The report of findings and recommendations of the Board
13 shall be the basis for the Department's order for refusal or
14 for the granting of a license, or for any disciplinary action,
15 unless the Secretary shall determine that the Board's report is
16 contrary to the manifest weight of the evidence, in which case
17 the Secretary may issue an order in contravention of the
18 Board's report. The finding is not admissible in evidence
19 against the person in a criminal prosecution brought for the
20 violation of this Act, but the hearing and finding are not a
21 bar to a criminal prosecution brought for the violation of this
22 Act.

23 Section 115. Rehearing. In any hearing involving
24 disciplinary action against a licensee, a copy of the Board's

1 report shall be served upon the respondent by the Department,
2 either personally or as provided in this Act for the service of
3 the notice of hearing. Within 20 calendar days after service,
4 the respondent may present to the Department a motion in
5 writing for a rehearing that shall specify the particular
6 grounds for rehearing. If no motion for rehearing is filed,
7 then upon the expiration of the time specified for filing a
8 motion, or if a motion for rehearing is denied, then upon
9 denial, the Secretary may enter an order in accordance with
10 recommendations of the Board, except as provided in this Act.
11 If the respondent orders from the reporting service, and pays
12 for, a transcript of the record within the time for filing a
13 motion for rehearing, the 20 calendar day period within which a
14 motion may be filed shall commence upon the delivery of the
15 transcript to the respondent.

16 Section 120. Appointment of a hearing officer. The
17 Secretary has the authority to appoint any attorney duly
18 licensed to practice law in the State of Illinois to serve as
19 the hearing officer in any action for refusal to issue or renew
20 a license, or to discipline a licensee. The hearing officer has
21 full authority to conduct the hearing. The hearing officer
22 shall report his findings and recommendations to the Board and
23 the Secretary. The Board has 60 calendar days from receipt of
24 the report to review the report of the hearing officer and
25 present its findings of fact, conclusions of law and

1 recommendations to the Secretary.

2 If the Board fails to present its report within the 60
3 calendar day period, the respondent may request in writing a
4 direct appeal to the Secretary, in which case the Secretary
5 shall, within 7 calendar days after the request, issue an order
6 directing the Board to issue its findings of fact, conclusions
7 of law, and recommendations to the Secretary within 30 calendar
8 days after such order.

9 If the Board fails to issue its findings of fact,
10 conclusions of law, and recommendations within that time frame
11 to the Secretary after the entry of such order, the Secretary
12 shall, within 30 calendar days thereafter, issue an order based
13 upon the report of the hearing officer and the record of the
14 proceedings or issue an order remanding the matter back to the
15 hearing officer for additional proceedings in accordance with
16 the order.

17 If (i) a direct appeal is requested, (ii) the Board fails
18 to issue its findings of fact, conclusions of law, and
19 recommendations within the 30-day mandate from the Secretary or
20 the Secretary fails to order the Board to do so, and (iii) the
21 Secretary fails to issue an order within 30 calendar days
22 thereafter, then the hearing officer's report is deemed
23 accepted and a final decision of the Secretary.

24 Notwithstanding any other provision of this Section, if the
25 Secretary, upon review, determines that substantial justice
26 has not been done in the revocation, suspension, or refusal to

1 issue or renew a license or other disciplinary action taken as
2 the result of the entry of the hearing officer's report, the
3 Secretary may order a rehearing by the same or other examiners.
4 If the Secretary disagrees with the recommendation of the Board
5 or the hearing officer, the Secretary may issue an order in
6 contravention of either recommendation.

7 Section 125. Order; certified copy. An order or a
8 certified copy thereof, over the seal of the Department and
9 purporting to be signed by the Secretary, shall be prima facie
10 proof:

11 (a) that the signature is the genuine signature of the
12 Secretary;

13 (b) that the Secretary is duly appointed and qualified; and

14 (c) that the Board and its members are qualified to act.

15 Section 130. Restoration of suspended or revoked license.
16 At any time after the successful completion of a term of
17 suspension or revocation of a license, the Department may
18 restore it to the licensee, upon the written recommendation of
19 the Board, unless after an investigation and a hearing the
20 Board determines that restoration is not in the public
21 interest.

22 Section 135. License surrender. Upon the revocation or
23 suspension of any license, the licensee shall immediately

1 surrender the license or licenses to the Department. If the
2 licensee fails to do so, the Department has the right to seize
3 the license or licenses.

4 Section 140. Summary suspension. The Secretary may
5 summarily suspend a license without a hearing, simultaneously
6 with the institution of proceedings for a hearing provided for
7 in this Act, if the Secretary finds that evidence in his or her
8 possession indicates that a continuation in practice would
9 constitute an imminent danger to the public. In the event that
10 the Secretary summarily suspends a license without a hearing, a
11 hearing by the Department must be held within 30 calendar days
12 after the suspension has occurred.

13 Section 145. Judicial review. All final administrative
14 decisions of the Department are subject to judicial review
15 under the Administrative Review Law and its rules. The term
16 "administrative decision" is defined as in Section 3-101 of the
17 Code of Civil Procedure. Proceedings for judicial review shall
18 be commenced in the circuit court of the county in which the
19 party applying for review resides; but if the party is not a
20 resident of this State, the venue shall be in Sangamon County.

21 Section 150. Certification of records. The Department
22 shall not be required to certify any record to the Court or
23 file any answer in court or otherwise appear in any court in a

1 judicial review proceeding, unless there is filed in the court,
2 with the complaint, a receipt from the Department acknowledging
3 payment of the costs of furnishing and certifying the record.
4 Failure on the part of the plaintiff to file such receipt in
5 Court shall be grounds for dismissal of the action.

6 Section 155. Violations; penalties.

7 (a) A person who violates any of the following provisions
8 shall be guilty of a Class A misdemeanor; a person who commits
9 a second or subsequent violation of these provisions is guilty
10 of a Class 4 felony:

11 (1) The practice of or attempted practice of or holding
12 out as available to practice as a community association
13 manager without a license.

14 (2) Operation of or attempt to operate a Community
15 Association Management Agency without an agency license.

16 (3) The obtaining of or the attempt to obtain any
17 license or authorization issued under this Act by
18 fraudulent misrepresentation.

19 (b) Whenever a licensee is convicted of a felony related to
20 the violations set forth in this Section, the clerk of the
21 court in any jurisdiction shall promptly report the conviction
22 to the Department and the Department shall immediately revoke
23 any license as a community association manager held by that
24 licensee. The individual shall not be eligible for licensure
25 under this Act until at least 10 years have elapsed since the

1 time of full discharge from any sentence imposed for a felony
2 conviction. If any person in making any oath or affidavit
3 required by this Act swears falsely, the person is guilty of
4 perjury and may be punished accordingly.

5 Section 160. Illinois Administrative Procedure Act. The
6 Illinois Administrative Procedure Act is expressly adopted and
7 incorporated in this Act as if all of the provisions of that
8 Act were included in this Act, except that the provision of
9 paragraph (d) of Section 10-65 of the Illinois Administrative
10 Procedure Act, which provides that at hearings the license
11 holder has the right to show compliance with all lawful
12 requirements for retention, continuation or renewal of the
13 certificate, is specifically excluded. For the purpose of this
14 Act the notice required under Section 10-25 of the Illinois
15 Administrative Procedure Act is deemed sufficient when mailed
16 to the last known address of record maintained for a party by
17 the Department.

18 Section 165. Home rule. The regulation and licensing of
19 community association managers and Community Association
20 Management Agencies are exclusive powers and functions of the
21 State. A home rule unit may not regulate or license community
22 association managers and Community Association Management
23 Agencies. This Section is a denial and limitation of home rule
24 powers and functions under subsection (h) of Section 6 of

1 Article VII of the Illinois Constitution.

2 Section 170. Enforcement. The licensure requirements of
3 this Act shall not be enforced until 12 months after the
4 adoption of final administrative rules for this Act.

5 Section 900. The Regulatory Sunset Act is amended by adding
6 Section 4.30 as follows:

7 (5 ILCS 80/4.30 new)

8 Sec. 4.30. Act repealed on January 1, 2020. The following
9 Act is repealed on January 1, 2020:

10 The Community Association Manager Licensing and
11 Disciplinary Act.

12 Section 950. The State Finance Act is amended by adding
13 Section 5.719 as follows:

14 (30 ILCS 105/5.719 new)

15 Sec. 5.719. The Community Association Manager Licensing
16 and Disciplinary Fund.

17 Section 999. Effective date. This Act takes effect July 1,
18 2010."