

SENATE BILL 931

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01r3380
CF 01r0376

By: **Senators Kelley, Conway, and Exum**

Introduced and read first time: February 17, 2010

Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

Common Interest Community Managers – Licensing and Regulation

FOR the purpose of creating the State Board of Common Interest Community Managers in the Department of Labor, Licensing, and Regulation; providing for the composition of the Board and the appointment, terms, and expenses of the Board members; providing for the election of certain officers, size of a Board quorum, and for meetings of the Board; authorizing the Board to sue in the name of the State, with the approval of the Attorney General, to enjoin certain conduct; establishing certain powers and duties of the Board; requiring the Board to maintain a list of certain names and addresses; requiring the Board to set certain fees by regulation, to publish a certain fee schedule, and to pay certain fees to the Comptroller; requiring the Comptroller to distribute certain fees to the State Board of Common Interest Community Managers Fund; requiring an individual to be licensed by the Board before the individual may provide certain management services to common interest communities in the State; establishing certain education and examination requirements for a license; requiring common interest community managers to obtain and maintain a certain fidelity bond or a certain insurance policy; providing for the application, term, renewal, and reinstatement of licenses; requiring common interest community managers to establish a certain code of conduct, provide management services in accordance with written contracts, and establish certain internal accounting controls; requiring a certified public accountant to review or audit certain financial statements in a certain manner; authorizing the Board to deny a license to an applicant, reprimand a licensee, suspend or revoke a license, or impose certain penalties under certain circumstances; establishing certain hearing procedures and rights to judicial review; authorizing a licensed common interest community manager to provide certain management services through certain business organizations if the business organization holds a permit issued by the Board; requiring a partnership, corporation, limited liability company, limited liability partnership, or other form of business organization to hold a permit issued by the Board before the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



person operates a business through which certain management services are provided to common interest communities; establishing certain requirements for a permit; providing for the application, issuance, scope, renewal, and reinstatement of permits; authorizing the Board to deny, suspend, or revoke a permit or reprimand a permit holder under certain circumstances; prohibiting certain acts; establishing certain criminal penalties; establishing the State Board of Common Interest Community Managers Fund; providing for the purpose, administration, composition, use, and audit of the Fund; requiring the Secretary, in consultation with the Board, to calculate certain costs annually; authorizing the Board to set certain fees, based on certain calculations, beginning on a certain date; prohibiting certain fees from increasing by more than a certain amount each year; making the Board subject to the Maryland Program Evaluation Act; providing for the termination of certain provisions of this Act; specifying the terms and qualifications of the initial members of the Board; providing for the application of this Act; defining certain terms; and generally relating to the State Board of Common Interest Community Managers and the regulation of common interest community management.

BY renumbering

Article – Business Regulation

Section 2–108(a)(10) through (34), respectively

to be Section 2–108(a)(11) through (35), respectively

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY renumbering

Article – State Government

Section 8–403(b)(13) through (68), respectively

to be Section 8–403(b)(14) through (69), respectively

Annotated Code of Maryland

(2009 Replacement Volume)

BY adding to

Article – Business Occupations and Professions

Section 4.5–101 through 4.5–602 to be under the new title “Title 4.5. Common Interest Community Managers”

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY adding to

Article – Business Regulation

Section 2–106.7, 2–106.8, and 2–108(a)(10)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8–403(a)

Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to

Article – State Government
Section 8–403(b)(13)
Annotated Code of Maryland
(2009 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–108(a)(10) through (34), respectively, of Article – Business Regulation of the Annotated Code of Maryland be renumbered to be Section(s) 2–108(a)(11) through (35), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(13) through (68), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(14) through (69), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

TITLE 4.5. COMMON INTEREST COMMUNITY MANAGERS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

4.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ASSOCIATION” INCLUDES CONDOMINIUM, COOPERATIVE, OR PROPERTY OWNERS’ ASSOCIATIONS.

(C) “BOARD” MEANS THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

(D) (1) “COMMON INTEREST COMMUNITY” MEANS REAL ESTATE LOCATED IN THE STATE SUBJECT TO A DECLARATION WHICH CONTAINS LOTS, AT LEAST SOME OF WHICH ARE RESIDENTIAL OR OCCUPIED FOR RECREATIONAL PURPOSES, AND COMMON AREAS TO WHICH A PERSON, BY VIRTUE OF OWNERSHIP OF A LOT, IS A MEMBER OF AN ASSOCIATION AND IS OBLIGATED TO PAY ASSESSMENTS PROVIDED FOR IN THE DECLARATION.

(2) “COMMON INTEREST COMMUNITY” DOES NOT INCLUDE A TIME-SHARE PROJECT.

(E) “COMMON INTEREST COMMUNITY MANAGER” MEANS A PERSON WHO FOR CONSIDERATION PROVIDES MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY.

(F) “LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE BOARD TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY.

(G) “LICENSED COMMON INTEREST COMMUNITY MANAGER” MEANS AN INDIVIDUAL LICENSED BY THE BOARD TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY.

(H) “PERMIT” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A PERMIT ISSUED BY THE BOARD TO ALLOW A PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER FORM OF BUSINESS ORGANIZATION TO OPERATE A BUSINESS THROUGH WHICH AN INDIVIDUAL MAY PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY.

(I) “PROVIDE MANAGEMENT SERVICES” MEANS:

(1) TO ACT WITH THE AUTHORITY OF AN ASSOCIATION IN ITS BUSINESS, LEGAL, FINANCIAL, OR OTHER TRANSACTIONS WITH ASSOCIATION MEMBERS AND NONMEMBERS;

(2) TO EXECUTE THE RESOLUTIONS AND DECISIONS OF AN ASSOCIATION OR, WITH THE AUTHORITY OF THE ASSOCIATION, TO ENFORCE THE RIGHTS OF THE ASSOCIATION SECURED BY STATUTE, CONTRACT, COVENANT, RULE, OR BYLAW;

(3) TO COLLECT, DISBURSE, OR OTHERWISE EXERCISE DOMINION OR CONTROL OVER MONEY OR OTHER PROPERTY BELONGING TO AN ASSOCIATION;

(4) TO PREPARE BUDGETS, FINANCIAL STATEMENTS, OR OTHER FINANCIAL REPORTS FOR AN ASSOCIATION;

(5) TO ARRANGE, CONDUCT, OR COORDINATE MEETINGS OF AN ASSOCIATION OR THE GOVERNING BODY OF AN ASSOCIATION;

(6) TO NEGOTIATE CONTRACTS OR OTHERWISE COORDINATE OR ARRANGE FOR SERVICES OR THE PURCHASE OF PROPERTY AND GOODS FOR OR ON BEHALF OF AN ASSOCIATION; OR

(7) TO OFFER OR SOLICIT TO PERFORM ANY OF THE ACTS OR SERVICES LISTED IN ITEMS (1) THROUGH (6) OF THIS SUBSECTION ON BEHALF OF AN ASSOCIATION.

4.5-102.

THIS TITLE DOES NOT PROHIBIT:

(1) AN EMPLOYEE OF A LICENSED COMMON INTEREST COMMUNITY MANAGER FROM PROVIDING MANAGEMENT SERVICES WITHIN THE SCOPE OF THE EMPLOYEE'S EMPLOYMENT BY THE LICENSED COMMON INTEREST COMMUNITY MANAGER;

(2) AN EMPLOYEE OF AN ASSOCIATION FROM PROVIDING MANAGEMENT SERVICES FOR THAT ASSOCIATION'S COMMON INTEREST COMMUNITY;

(3) A RESIDENT OF A COMMON INTEREST COMMUNITY WHO ACTS WITHOUT COMPENSATION FROM PROVIDING MANAGEMENT SERVICES FOR THAT COMMON INTEREST COMMUNITY;

(4) A MEMBER OF THE GOVERNING BOARD OF AN ASSOCIATION WHO ACTS WITHOUT COMPENSATION FROM PROVIDING MANAGEMENT SERVICES FOR THAT ASSOCIATION'S COMMON INTEREST COMMUNITY;

(5) A PERSON WHO ACTS AS A RECEIVER OR TRUSTEE IN BANKRUPTCY IN THE PERFORMANCE OF DUTIES OR A PERSON WHO ACTS UNDER A COURT ORDER FROM PROVIDING MANAGEMENT SERVICES FOR A COMMON INTEREST COMMUNITY;

(6) AN ATTORNEY AT LAW FROM REPRESENTING AN ASSOCIATION OR A COMMON INTEREST COMMUNITY MANAGER IN ANY BUSINESS THAT CONSTITUTES THE PRACTICE OF LAW;

(7) A CERTIFIED PUBLIC ACCOUNTANT FROM PROVIDING BOOKKEEPING OR ACCOUNTING SERVICES TO AN ASSOCIATION OR A COMMON INTEREST COMMUNITY MANAGER;

(8) A REAL ESTATE BROKER OR SALESPERSON FROM SELLING, LEASING, RENTING, OR MANAGING LOTS WITHIN A COMMON INTEREST COMMUNITY; OR

(9) AN ASSOCIATION, EXCHANGE AGENT, EXCHANGE COMPANY, MANAGING AGENT, OR MANAGING ENTITY OF A TIME-SHARE PROJECT FROM PROVIDING MANAGEMENT SERVICES FOR A TIME-SHARE PROJECT.

SUBTITLE 2. STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

4.5-201.

THERE IS A STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS IN THE DEPARTMENT.

4.5-202.

(A) (1) **THE BOARD CONSISTS OF 11 MEMBERS.**

(2) **OF THE 11 MEMBERS OF THE BOARD:**

(I) **THREE SHALL BE LICENSED COMMON INTEREST COMMUNITY MANAGERS;**

(II) **ONE SHALL BE A MARYLAND LAWYER WHOSE PRACTICE INCLUDES THE REPRESENTATION OF ASSOCIATIONS;**

(III) **ONE SHALL BE A CERTIFIED PUBLIC ACCOUNTANT WHOSE PRACTICE INCLUDES PROVIDING ATTEST SERVICES TO ASSOCIATIONS;**

(IV) **TWO SHALL BE DEVELOPERS OF STATE COMMON INTEREST COMMUNITIES;**

(V) **ONE SHALL BE A MEMBER OF THE GOVERNING BOARD OF AN ASSOCIATION;**

(VI) **TWO SHALL RESIDE IN A COMMON INTEREST COMMUNITY; AND**

(VII) **ONE SHALL BE A CONSUMER MEMBER.**

(3) **THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE OF THE SECRETARY.**

(B) EACH MEMBER OF THE BOARD SHALL BE:

- (1) A CITIZEN OF THE UNITED STATES; AND**
- (2) A RESIDENT OF THE STATE.**

(C) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(D) (1) THE TERM OF A MEMBER IS 4 YEARS AND BEGINS ON JULY 1.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2010.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

4.5-203.

(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND VICE CHAIR.

(B) THE TERM OF THE CHAIR AND VICE CHAIR IS 1 YEAR.

4.5-204.

(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(C) EACH MEMBER OF THE BOARD IS ENTITLED TO:

**(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;
AND**

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) THE BOARD MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.

4.5-205.

IN ADDITION TO ANY OTHER REMEDY AUTHORIZED UNDER THIS TITLE, THE BOARD, WITH THE APPROVAL OF THE ATTORNEY GENERAL, MAY SUE IN THE NAME OF THE STATE TO ENJOIN ANY ACT THAT IS PROHIBITED UNDER SUBTITLE 5 OF THIS TITLE.

4.5-206.

(A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY ADOPT:

(1) BYLAWS AS NECESSARY TO DO THE BUSINESS OF THE BOARD;
AND

(2) REGULATIONS TO CARRY OUT THIS TITLE.

(B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD SHALL:

(1) ADOPT RULES OF PROFESSIONAL CONDUCT FOR COMMON INTEREST COMMUNITY MANAGERS; AND

(2) KEEP A RECORD OF ITS PROCEEDINGS.

4.5-207.

(A) THE BOARD SHALL MAINTAIN A LIST OF THE NAMES AND MAILING ADDRESSES OF ALL LICENSEES AND PERMIT HOLDERS.

(B) THE BOARD MAY RELEASE ITS LIST TO THE PUBLIC.

(C) THE LICENSEE OR PERMIT HOLDER SHALL DESIGNATE ITS MAILING ADDRESS AT THE TIME OF ISSUANCE OF THE ORIGINAL LICENSE OR PERMIT AND ON THE RENEWAL OF THE LICENSE OR PERMIT.

4.5-208.

(A) (1) BEGINNING ON JULY 1, 2011, THE BOARD MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES.

(2) THE FEES CHARGED SHALL BE:

(I) SET TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD; AND

(II) BASED ON THE CALCULATIONS PERFORMED BY THE SECRETARY OF LABOR, LICENSING, AND REGULATION UNDER § 2-106.8 OF THE BUSINESS REGULATION ARTICLE.

(B) THE BOARD SHALL PUBLISH THE FEE SCHEDULE SET BY THE BOARD.

(C) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS FUND ESTABLISHED UNDER § 2-106.7 OF THE BUSINESS REGULATION ARTICLE.

4.5-209.

THE BOARD EXERCISES ITS POWERS, DUTIES, AND FUNCTIONS SUBJECT TO THE AUTHORITY OF THE SECRETARY.

SUBTITLE 3. LICENSES.

4.5-301.

AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY IN THE STATE.

4.5-302.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL:

(1) BE OF GOOD CHARACTER AND REPUTATION; AND

(2) BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL:

(1) HOLD AN ACTIVE DESIGNATION AS A PROFESSIONAL COMMUNITY ASSOCIATION MANAGER AND PROVIDE PROOF OF HAVING BEEN ACTIVELY ENGAGED IN PROVIDING MANAGEMENT SERVICES FOR A PERIOD OF AT LEAST 12 MONTHS IMMEDIATELY PRECEDING APPLICATION;

(2) HOLD AN ACTIVE DESIGNATION AS AN ASSOCIATION MANAGEMENT SPECIALIST AND PROVIDE PROOF OF AT LEAST 5 YEARS OF EXPERIENCE IN PROVIDING MANAGEMENT SERVICES, WITH A MINIMUM OF 12 MONTHS OF THAT EXPERIENCE GAINED IMMEDIATELY PRECEDING APPLICATION; OR

(3) COMPLETE A TRAINING PROGRAM AND CERTIFYING EXAMINATION APPROVED BY THE BOARD.

4.5-303.

AN APPLICANT FOR A LICENSE SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES;

(2) SUBMIT TO THE BOARD PROOF OF THE FIDELITY BOND OR INSURANCE POLICY REQUIRED BY § 4.5-304 OF THIS SUBTITLE; AND

(3) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

4.5-304.

(A) A COMMON INTEREST COMMUNITY MANAGER SHALL OBTAIN AND MAINTAIN A BLANKET FIDELITY BOND OR EMPLOYEE DISHONESTY INSURANCE POLICY THAT INSURES THE COMMON INTEREST COMMUNITY MANAGER AGAINST LOSSES RESULTING FROM THEFT OR DISHONESTY COMMITTED BY THE OFFICERS, DIRECTORS, AND INDIVIDUALS EMPLOYED BY THE COMMON INTEREST COMMUNITY MANAGER.

(B) (1) THE BOND OR INSURANCE POLICY SHALL PROVIDE COVERAGE IN AN AMOUNT EQUAL TO THE LESSER OF \$2,000,000 OR THE HIGHEST AGGREGATE AMOUNT OF THE OPERATING AND RESERVE BALANCES OF

ALL ASSOCIATIONS UNDER THE CONTROL OF THE COMMON INTEREST COMMUNITY MANAGER DURING THE PRIOR FISCAL YEAR.

(2) THE MINIMUM COVERAGE AMOUNT SHALL BE \$10,000.

(3) THE BOND OR INSURANCE POLICY SHALL NAME THE COMMON INTEREST COMMUNITY MANAGER AS AN INDIVIDUAL NAMED INSURED.

4.5-305.

(A) IF AN APPLICANT QUALIFIES FOR A LICENSE UNDER THIS SUBTITLE, THE BOARD SHALL SEND THE APPLICANT A NOTICE THAT STATES THAT:

(1) THE APPLICANT HAS QUALIFIED FOR A LICENSE; AND

(2) ON RECEIPT OF A LICENSE FEE SET BY THE BOARD, THE BOARD WILL ISSUE A LICENSE TO THE APPLICANT.

(B) ON PAYMENT OF THE LICENSE FEE, THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

4.5-306.

(A) (1) A LICENSE EXPIRES ON THE DATE SET BY THE BOARD UNLESS IT IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

(2) A LICENSE MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(B) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(III) THE AMOUNT OF THE LICENSE FEE.

(C) BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

- (1) OTHERWISE IS ENTITLED TO BE LICENSED;**
- (2) PAYS TO THE BOARD A LICENSE FEE SET BY THE BOARD; AND**
- (3) SUBMITS TO THE BOARD:**

(I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD PROVIDES;

(II) PROOF OF THE FIDELITY BOND OR INSURANCE POLICY REQUIRED BY § 4.5-304 OF THIS SUBTITLE; AND

(III) PROOF OF MEETING ANY CONTINUING EDUCATION REQUIREMENT SET BY THE BOARD.

(D) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(E) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

4.5-307.

IN ACCORDANCE WITH ITS REGULATIONS, THE BOARD MAY REINSTATE THE LICENSE OF AN INDIVIDUAL WHO HAS FAILED TO RENEW THE LICENSE FOR ANY REASON IF THE INDIVIDUAL:

- (1) OTHERWISE IS ENTITLED TO BE LICENSED; AND**
- (2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.**

4.5-308.

(A) EACH COMMON INTEREST COMMUNITY MANAGER SHALL BE IN GOOD STANDING AND AUTHORIZED TO TRANSACT BUSINESS IN THE STATE.

(B) EACH COMMON INTEREST COMMUNITY MANAGER SHALL ESTABLISH A CODE OF CONDUCT FOR THE OFFICERS, DIRECTORS, AND

INDIVIDUALS EMPLOYED BY THE COMMON INTEREST COMMUNITY MANAGER TO PROTECT AGAINST CONFLICTS OF INTEREST.

(C) EACH COMMON INTEREST COMMUNITY MANAGER SHALL PROVIDE MANAGEMENT SERVICES IN ACCORDANCE WITH WRITTEN CONTRACTS WITH THE ASSOCIATIONS TO WHICH THE MANAGEMENT SERVICES ARE PROVIDED.

(D) EACH COMMON INTEREST COMMUNITY MANAGER SHALL ESTABLISH A SYSTEM OF INTERNAL ACCOUNTING CONTROLS TO MANAGE THE RISK OF FRAUD OR ILLEGAL ACTS.

(E) AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL REVIEW OR AUDIT THE FINANCIAL STATEMENTS OF THE COMMON INTEREST COMMUNITY MANAGER AT LEAST ANNUALLY IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OR BY ANY SUCCESSOR STANDARD-SETTING AUTHORITIES.

4.5-309.

(A) (1) SUBJECT TO THE HEARING PROVISIONS OF § 4.5-311 OF THIS SUBTITLE, THE BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

(I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

(II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(III) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF:

1. A FELONY; OR

2. A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATIONS OF THE APPLICANT OR LICENSEE TO PROVIDE MANAGEMENT SERVICES;

(IV) IS GUILTY OF FRAUD OR OTHER DISHONESTY IN PROVIDING MANAGEMENT SERVICES;

(V) IS GUILTY OF GROSS NEGLIGENCE IN PROVIDING MANAGEMENT SERVICES;

(VI) VIOLATES ANY PROVISION OF SUBTITLE 5 OF THIS TITLE;

(VII) HAS HAD THE RIGHT TO PRACTICE AS A COMMON INTEREST COMMUNITY MANAGER IN ANOTHER STATE DENIED, REVOKED, OR SUSPENDED;

(VIII) HAS BEEN SANCTIONED IN ANOTHER STATE IN A MATTER RELATING TO PROVIDING MANAGEMENT SERVICES;

(IX) HAS HAD THE RENEWAL OF THE RIGHT TO PRACTICE AS A COMMON INTEREST COMMUNITY MANAGER IN ANOTHER STATE DENIED FOR ANY CAUSE OTHER THAN FAILURE TO PAY A RENEWAL FEE;

(X) HAS HAD THE RIGHT TO PRACTICE AS A COMMON INTEREST COMMUNITY MANAGER BEFORE ANY UNIT OF THE STATE OR FEDERAL GOVERNMENT REVOKED OR SUSPENDED;

(XI) HAS BEEN SANCTIONED BY ANY UNIT OF STATE OR FEDERAL GOVERNMENT FOR AN ACT OR OMISSION THAT DIRECTLY RELATES TO THE FITNESS OF THE APPLICANT OR LICENSEE TO PROVIDE MANAGEMENT SERVICES;

(XII) HAS ANY PENDING JUDGMENTS OR TAX LIENS THAT ARE UNPAID; OR

(XIII) VIOLATES A RULE OF PROFESSIONAL CONDUCT ADOPTED BY THE BOARD.

(2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

1. THE SERIOUSNESS OF THE VIOLATION;
2. THE HARM CAUSED BY THE VIOLATION;
3. THE GOOD FAITH OF THE LICENSEE; AND

4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

(B) THE BOARD SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A FELONY OR MISDEMEANOR DESCRIBED IN SUBSECTION (A)(1)(III) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATIONS OF THE APPLICANT OR LICENSEE TO PROVIDE MANAGEMENT SERVICES;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE BEFORE AND AFTER THE CONVICTION.

4.5-310.

ON ITS OWN INITIATIVE OR ON A WRITTEN COMPLAINT MADE TO THE BOARD BY ANY PERSON, THE BOARD MAY COMMENCE PROCEEDINGS UNDER § 4.5-309 OF THIS SUBTITLE.

4.5-311.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER § 4.5-309 OF THIS SUBTITLE OR § 4.5-408 OF THIS TITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.

(D) (1) THE BOARD MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF EVIDENCE IN CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.

(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE BOARD, A CIRCUIT COURT MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

(E) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE BOARD MAY HEAR AND DETERMINE THE MATTER.

4.5-312.

ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, IS ENTITLED TO JUDICIAL REVIEW AS PROVIDED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

SUBTITLE 4. PERMITS.

4.5-401.

(A) SUBJECT TO THIS SUBTITLE, A LICENSED COMMON INTEREST COMMUNITY MANAGER MAY PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY THROUGH AN ASSOCIATION, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR ANY OTHER FORM OF BUSINESS ORGANIZATION THAT HOLDS A PERMIT UNDER THIS SUBTITLE.

(B) AN ASSOCIATION, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR ANY OTHER FORM OF BUSINESS ORGANIZATION SHALL HOLD A PERMIT ISSUED BY THE BOARD BEFORE THE PERSON MAY OPERATE A BUSINESS THROUGH WHICH MANAGEMENT SERVICES ARE PROVIDED TO A COMMON INTEREST COMMUNITY.

4.5-402.

(A) TO QUALIFY FOR A PERMIT, AN APPLICANT SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL HAVE A PERMANENT OFFICE IN THE STATE.

(C) THE APPLICANT SHALL HOLD AN ACTIVE DESIGNATION AS AN ACCREDITED ASSOCIATION MANAGEMENT COMPANY BY THE COMMUNITY ASSOCIATIONS INSTITUTE.

(D) THE APPLICANT SHALL BE CURRENT ON ALL FINANCIAL AND TAX OBLIGATIONS TO THE STATE AND TO THE COUNTIES IN WHICH THE APPLICANT WILL DO BUSINESS.

4.5-403.

AN APPLICANT FOR A PERMIT SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES; AND

(2) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

4.5-404.

THE BOARD SHALL ISSUE A PERMIT TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND PAYS TO THE BOARD THE PERMIT FEE SET BY THE BOARD.

4.5-405.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND WHILE A PERMIT IS IN EFFECT, IT AUTHORIZES THE HOLDER TO:

(1) OPERATE A BUSINESS THROUGH WHICH A LICENSED COMMON INTEREST COMMUNITY MANAGER PROVIDES MANAGEMENT SERVICES; AND

(2) REPRESENT TO THE PUBLIC THAT THE BUSINESS PROVIDES THE SERVICES OF A LICENSED COMMON INTEREST COMMUNITY MANAGER.

(B) A PERMIT AUTHORIZES THE HOLDER TO PROVIDE A SERVICE THAT CONSTITUTES PROVIDING MANAGEMENT SERVICES ONLY IF THE SERVICE IS PERFORMED BY AN INDIVIDUAL WHO IS LICENSED OR OTHERWISE AUTHORIZED UNDER THIS TITLE TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY.

4.5-406.

(A) (1) A PERMIT EXPIRES ON THE DATE SET BY THE BOARD UNLESS IT IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

(2) A PERMIT MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(B) AT LEAST 1 MONTH BEFORE A PERMIT EXPIRES, THE BOARD SHALL MAIL TO THE PERMIT HOLDER, AT THE LAST KNOWN ADDRESS OF THE PERMIT HOLDER:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT PERMIT EXPIRES;

(II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE PERMIT EXPIRES; AND

(III) THE AMOUNT OF THE PERMIT FEE.

(C) BEFORE A PERMIT EXPIRES, THE PERMIT HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE HOLDER:

(1) OTHERWISE IS ENTITLED TO A PERMIT;

(2) PAYS TO THE BOARD THE PERMIT FEE SET BY THE BOARD;

AND

(3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM THAT THE BOARD PROVIDES.

(D) THE BOARD SHALL RENEW THE PERMIT OF EACH PERMIT HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

4.5-407.

IN ACCORDANCE WITH ITS REGULATIONS, THE BOARD MAY REINSTATE THE PERMIT OF A PERSON WHO HAS FAILED TO RENEW THE PERMIT FOR ANY REASON IF THE PERSON:

(1) OTHERWISE IS ENTITLED TO HOLD A PERMIT; AND

(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.

4.5-408.

SUBJECT TO THE HEARING PROVISIONS OF § 4.5-311 OF THIS TITLE, THE BOARD MAY DENY A PERMIT TO ANY APPLICANT, REPRIMAND ANY PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT:

(1) FOR ANY APPLICABLE GROUND UNDER § 4.5-309 OF THIS TITLE;

(2) IF THE APPLICANT OR HOLDER FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT FOR THE APPLICANT OR HOLDER OR FOR ANOTHER; OR

(3) IF THE APPLICANT OR HOLDER FRAUDULENTLY OR DECEPTIVELY USES A PERMIT.

4.5-409.

ON ITS OWN INITIATIVE OR ON A WRITTEN COMPLAINT MADE TO THE BOARD BY ANY PERSON, THE BOARD MAY COMMENCE PROCEEDINGS UNDER § 4.5-408 OF THIS SUBTITLE.

SUBTITLE 5. PROHIBITED ACTS; PENALTIES.**4.5-501.**

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT PROVIDE, ATTEMPT TO PROVIDE, OR OFFER TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY IN THE STATE UNLESS LICENSED BY THE BOARD.

4.5-502.

EXCEPT FOR A LICENSED COMMON INTEREST COMMUNITY MANAGER WHO OPERATES A BUSINESS AS A SOLE PROPRIETOR, A PERSON MAY NOT OPERATE A BUSINESS THROUGH WHICH MANAGEMENT SERVICES ARE PROVIDED TO A COMMON INTEREST COMMUNITY, UNLESS THE PERSON HOLDS A PERMIT ISSUED BY THE BOARD.

4.5-503.

UNLESS AUTHORIZED UNDER THIS TITLE TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY, A PERSON MAY NOT

REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING “LICENSED COMMON INTEREST COMMUNITY MANAGER”, “COMMON INTEREST COMMUNITY MANAGER”, OR “COMMON INTEREST COMMUNITY MANAGEMENT”, BY USE OF AN ABBREVIATION, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY IN THE STATE.

4.5-504.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND UNLESS A PERSON HOLDS A PERMIT ISSUED BY THE BOARD OR IS OTHERWISE AUTHORIZED UNDER THIS TITLE TO PROVIDE MANAGEMENT SERVICES, THE PERSON MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING “LICENSED COMMON INTEREST COMMUNITY MANAGERS” OR “COMMON INTEREST COMMUNITY MANAGERS”, BY USE OF AN ABBREVIATION, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON HOLDS A PERMIT OR OTHERWISE IS AUTHORIZED TO OPERATE A BUSINESS THROUGH WHICH MANAGEMENT SERVICES ARE PROVIDED TO COMMON INTEREST COMMUNITIES IN THE STATE.

(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A LICENSED COMMON INTEREST COMMUNITY MANAGER WHO OPERATES THE BUSINESS AS A SOLE PROPRIETOR.

4.5-505.

(A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

(B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL CONSIDER:

- (I) THE SERIOUSNESS OF THE VIOLATION;
- (II) THE HARM CAUSED BY THE VIOLATION;
- (III) THE GOOD FAITH OF THE VIOLATOR;

(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR; AND

(V) ANY OTHER RELEVANT FACTORS.

SUBTITLE 6. SHORT TITLE; TERMINATION OF TITLE.

4.5-601.

THIS TITLE MAY BE CITED AS THE “MARYLAND COMMON INTEREST COMMUNITY MANAGERS ACT”.

4.5-602.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL REGULATIONS ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2016.

Article – Business Regulation

2-106.7.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BOARD” MEANS THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

(3) “FUND” MEANS THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS FUND.

(B) THERE IS A STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS FUND IN THE DEPARTMENT.

(C) THE PURPOSE OF THE FUND IS TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD.

(D) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 4.5-208 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

(2) INVESTMENT EARNINGS OF THE FUND;

(3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

2-106.8.

(A) IN THIS SECTION, “BOARD” MEANS THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

(B) IN CONSULTATION WITH THE BOARD, THE SECRETARY SHALL CALCULATE ANNUALLY THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE BOARD.

(C) BEGINNING ON JULY 1, 2011, THE BOARD SHALL ESTABLISH FEES BASED ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.

(D) EACH FEE ESTABLISHED BY THE BOARD MAY NOT BE INCREASED ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF THE BOARD.

2-108.

(a) The following units are in the Department:

(10) THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

Article – State Government

8-403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(13) COMMON INTEREST COMMUNITY MANAGERS, STATE BOARD OF (§ 4.5-201 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, JULY 1, 2016);

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The terms of the initial members of the State Board of Common Interest Community Managers shall expire as follows:

- (1) four members in 2012;
- (2) four members in 2013; and
- (3) three members in 2014.

(b) On or after July 1, 2014, the Governor shall appoint the membership of the State Board of Common Interest Community Managers in accordance with the provisions of § 4.5–202 of the Business Occupations and Professions Article.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.