

SENATE TESTIMONY

HB367 – Manager Licensing

Presented by: Chris Majerle, CMCA, AMS, PCAM, GRI
on behalf of the Community Associations Institute
Maryland Legislative Action Committee

One would expect that one reason for the passage of any new legislation would be to solve a problem. In the case of community manager licensing, it has long been held that the reason licensing is needed is to prevent unscrupulous characters from getting into or staying in the business where they may embezzle money from our community associations. To that end, the Community Associations Institute's Maryland Legislative Action Committed (CAI-MD LAC) has worked with Delegate Holmes and, to a lesser degree, Del. Davis' bills over the years to refine the legislation and help make it happen.

This year, we were reminded that CAI's National Public Policy is to oppose Manager Licensing Legislation, so rather than be forced to merely oppose, the MD LAC requested a Public Policy waiver. While we were granted a conditional waiver, the discussion with the National Public Policy Committee brought to light the fact that only 8 states require licensing and Colorado allowed their law to sunset because it did not make a measurable difference in the rate of embezzlement or appreciably raise the standard of manager competency. Virginia is reportedly considering dropping their license law as well.

Assuming the Senate would like to press forward with this bill, there are some points to consider:

1. Last year, law was enacted to require reserve studies and full reserve funding for communities in Prince George's County. Two such bills are working their way through the legislature this year to apply that law to Montgomery County or Statewide. At a time when communities are begin forced to increase assessments for reserve funding, this bill would hit them with the added burden of helping fund the Community Manager License. There is a per-door registration fee in this bill and the reason for that was, without it, estimates in prior years were that our license fees would be as much as 4 times that of any other Maryland license. There simply are not enough community managers to support a Commission or State Board;
2. The Bill defines collection of assessments as a function that requires a license, but does not exempt managers from having to pay a fee to the State and purchase a bond to obtain a Collection Agency License;
3. The bill requires that the Board establish education certifications for license and continuing education. We would like to avoid what is happening in Montgomery County with Board Member education where only the Commission on Common Ownership Communities can provide the training, and establish that private entities and associations be able to deliver this training. Further, Licensed Community Managers must hold a Professional Designation. To be clear, the CMCA is not a designation; rather a certification issued by the Community Association Managers International Certification Board. Designations are currently only available through CAI and include the Association Management Specialist (AMS), Professional Community Association Manager (PCAM) and Large Scale Manager (LSM). And, those of us who currently hold these designations believe they show a commitment to excellence that differentiates us from others in the business. We object to their value being diminished by being a licensure requirement. Further, these designations come

with significant cost for education, continuing education, time, association membership and designation fees, all of which would ultimately have to be passed-on to communities (refer to #1, above) or, in the case of larger management firms where they are already being absorbed, will increase the bar of entry into the business for start-ups and small companies;

4. This brings us to “companies”. There is no reference to management companies or firms in the legislation. Everything refers to the Licensed Community Manager. The LCM is the “Responsible Party” providing services under the contract. Does this create a contract ownership by the LCM? What if the LCM leaves the firm? Will the contract terminate? As with the real estate brokerage law, we would like to see one “Responsible Party” in a company. Even the largest of real estate brokerages have only one “Broker”. All Associate Brokers and Salespersons must be licensed under the Broker and the Broker owns the contracts;

5. The Bill would require Licensed Community Managers to have a fidelity bond of up to \$2 million. This protection is duplicative in that law already requires associations to fully protect their funds against theft by anyone, including the Community Manager. For some of us, \$2 million would not put a dent in the amount that we could embezzle if we were so inclined. My firm has a \$500,000 fidelity bond and we pay \$1,576 annually. A \$2 million fidelity bond may cost upwards of \$5,000 annually—yet another cost that will find its way to the association’s budget through increased management fees;

6. Finally, persons who enter the business by the time this law goes into effect and remain in the business for the next two years will be exempt from education and examination requirements. If education and examination are so important, why are we allowing persons to enter the business just prior to enactment and escape these requirements?

In the end, the CAI MD-LAC must oppose HB367 if, for no other reason, because we believe experience in other states shows that all these costs and issues are for naught. The desired results simply are not achieved by licensure.