

SENATE BILL 931

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CF 0lr0376

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

Introduced and read first time: February 17, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Common Interest Community Managers – Licensing and Regulation**

3 FOR the purpose of creating the State Board of Common Interest Community
4 Managers in the Department of Labor, Licensing, and Regulation; providing for
5 the composition of the Board and the appointment, terms, and expenses of the
6 Board members; providing for the election of certain officers, size of a Board
7 quorum, and for meetings of the Board; authorizing the Board to sue in the
8 name of the State, with the approval of the Attorney General, to enjoin certain
9 conduct; establishing certain powers and duties of the Board; requiring the
10 Board to maintain a list of certain names and addresses; requiring the Board to
11 set certain fees by regulation, to publish a certain fee schedule, and to pay
12 certain fees to the Comptroller; requiring the Comptroller to distribute certain
13 fees to the State Board of Common Interest Community Managers Fund;
14 requiring an individual to be licensed by the Board before the individual may
15 provide certain management services to common interest communities in the
16 State; establishing certain education and examination requirements for a
17 license; requiring common interest community managers to obtain and
18 maintain a certain fidelity bond or a certain insurance policy; providing for the
19 application, term, renewal, and reinstatement of licenses; requiring common
20 interest community managers to establish a certain code of conduct, provide
21 management services in accordance with written contracts, and establish
22 certain internal accounting controls; requiring a certified public accountant to
23 review or audit certain financial statements in a certain manner; authorizing
24 the Board to deny a license to an applicant, reprimand a licensee, suspend or
25 revoke a license, or impose certain penalties under certain circumstances;
26 establishing certain hearing procedures and rights to judicial review;
27 authorizing a licensed common interest community manager to provide certain
28 management services through certain business organizations if the business
29 organization holds a permit issued by the Board; requiring a partnership,
30 corporation, limited liability company, limited liability partnership, or other
31 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.



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

18 BY renumbering

19 Article – Business Regulation
20 Section 2–108(a)(10) through (34), respectively
21 to be Section 2–108(a)(11) through (35), respectively
22 Annotated Code of Maryland
23 (2004 Replacement Volume and 2009 Supplement)

24 BY renumbering

25 Article – State Government
26 Section 8–403(b)(13) through (68), respectively
27 to be Section 8–403(b)(14) through (69), respectively
28 Annotated Code of Maryland
29 (2009 Replacement Volume)

30 BY adding to

31 Article – Business Occupations and Professions
32 Section 4.5–101 through 4.5–602 to be under the new title “Title 4.5. Common
33 Interest Community Managers”
34 Annotated Code of Maryland
35 (2004 Replacement Volume and 2009 Supplement)

36 BY adding to

37 Article – Business Regulation
38 Section 2–106.7, 2–106.8, and 2–108(a)(10)
39 Annotated Code of Maryland
40 (2004 Replacement Volume and 2009 Supplement)

41 BY repealing and reenacting, without amendments,

42 Article – State Government
43 Section 8–403(a)

1 Annotated Code of Maryland
2 (2009 Replacement Volume)

3 BY adding to
4 Article – State Government
5 Section 8–403(b)(13)
6 Annotated Code of Maryland
7 (2009 Replacement Volume)

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

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

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

17 **Article – Business Occupations and Professions**

18 **TITLE 4.5. COMMON INTEREST COMMUNITY MANAGERS.**

19 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

20 **4.5–101.**

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

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

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

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

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

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

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

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

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

18 **(I) “PROVIDE MANAGEMENT SERVICES” MEANS:**

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

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

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

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

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

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

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

7 **4.5-102.**

8 **THIS TITLE DOES NOT PROHIBIT:**

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

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

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

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

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

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

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

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

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

7 **SUBTITLE 2. STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.**

8 **4.5-201.**

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

11 **4.5-202.**

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

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

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

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

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

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

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

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

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

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

1 **(B) EACH MEMBER OF THE BOARD SHALL BE:**

2 **(1) A CITIZEN OF THE UNITED STATES; AND**

3 **(2) A RESIDENT OF THE STATE.**

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

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

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

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

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

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

17 **4.5-203.**

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

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

21 **4.5-204.**

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

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

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

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

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

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

5 **4.5-205.**

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

10 **4.5-206.**

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

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

15 **(2) REGULATIONS TO CARRY OUT THIS TITLE.**

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

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

20 **(2) KEEP A RECORD OF ITS PROCEEDINGS.**

21 **4.5-207.**

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

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

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

28 **4.5-208.**

1 **(2) BE AT LEAST 18 YEARS OLD.**

2 **(C) THE APPLICANT SHALL:**

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

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

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

14 **4.5-303.**

15 **AN APPLICANT FOR A LICENSE SHALL:**

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

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

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

21 **4.5-304.**

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

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

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

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

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

6 **4.5-305.**

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

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

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

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

15 **4.5-306.**

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

18 (2) A LICENSE MAY NOT BE RENEWED FOR A TERM LONGER THAN
19 2 YEARS.

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

22 (1) A RENEWAL APPLICATION FORM; AND

23 (2) A NOTICE THAT STATES:

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

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

28 (III) THE AMOUNT OF THE LICENSE FEE.

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

3 **(1) OTHERWISE IS ENTITLED TO BE LICENSED;**

4 **(2) PAYS TO THE BOARD A LICENSE FEE SET BY THE BOARD; AND**

5 **(3) SUBMITS TO THE BOARD:**

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

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

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

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

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

16 **4.5-307.**

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

20 **(1) OTHERWISE IS ENTITLED TO BE LICENSED; AND**

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

23 **4.5-308.**

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

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

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

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

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

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

14 **4.5-309.**

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

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

22 (II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

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

25 1. A FELONY; OR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE
2 LICENSEE.

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

8 (1) THE NATURE OF THE CRIME;

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

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

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

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

17 4.5-310.

18 ON ITS OWN INITIATIVE OR ON A WRITTEN COMPLAINT MADE TO THE
19 BOARD BY ANY PERSON, THE BOARD MAY COMMENCE PROCEEDINGS UNDER §
20 4.5-309 OF THIS SUBTITLE.

21 4.5-311.

22 (A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE
23 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER
24 § 4.5-309 OF THIS SUBTITLE OR § 4.5-408 OF THIS TITLE, IT SHALL GIVE THE
25 PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR
26 A HEARING BEFORE THE BOARD.

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

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

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

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

7 **4.5-403.**

8 **AN APPLICANT FOR A PERMIT SHALL:**

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

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

12 **4.5-404.**

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

16 **4.5-405.**

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

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

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

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

28 **4.5-406.**

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

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

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

6 (1) A RENEWAL APPLICATION FORM; AND

7 (2) A NOTICE THAT STATES:

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

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

12 (III) THE AMOUNT OF THE PERMIT FEE.

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

15 (1) OTHERWISE IS ENTITLED TO A PERMIT;

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

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

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

22 4.5-407.

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

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

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

1 **4.5-408.**

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

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

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

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

12 **4.5-409.**

13 **ON ITS OWN INITIATIVE OR ON A WRITTEN COMPLAINT MADE TO THE**
14 **BOARD BY ANY PERSON, THE BOARD MAY COMMENCE PROCEEDINGS UNDER §**
15 **4.5-408 OF THIS SUBTITLE.**

16 **SUBTITLE 5. PROHIBITED ACTS; PENALTIES.**

17 **4.5-501.**

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

22 **4.5-502.**

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

28 **4.5-503.**

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

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

7 **4.5-504.**

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

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

21 **4.5-505.**

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

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

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

30 (I) THE SERIOUSNESS OF THE VIOLATION;

31 (II) THE HARM CAUSED BY THE VIOLATION;

32 (III) THE GOOD FAITH OF THE VIOLATOR;

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

3 (V) ANY OTHER RELEVANT FACTORS.

4 SUBTITLE 6. SHORT TITLE; TERMINATION OF TITLE.

5 4.5-601.

6 THIS TITLE MAY BE CITED AS THE "MARYLAND COMMON INTEREST
7 COMMUNITY MANAGERS ACT".

8 4.5-602.

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

13 Article – Business Regulation

14 2-106.7.

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

17 (2) "BOARD" MEANS THE STATE BOARD OF COMMON INTEREST
18 COMMUNITY MANAGERS.

19 (3) "FUND" MEANS THE STATE BOARD OF COMMON INTEREST
20 COMMUNITY MANAGERS FUND.

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

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

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

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

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

3 **(F) THE FUND CONSISTS OF:**

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

6 **(2) INVESTMENT EARNINGS OF THE FUND;**

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

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

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

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

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

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

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

23 **2-106.8.**

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

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

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

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

7 2-108.

8 (a) The following units are in the Department:

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

11 **Article – State Government**

12 8-403.

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

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

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

24 SECTION 4. AND BE IT FURTHER ENACTED, That:

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

27 (1) four members in 2012;

28 (2) four members in 2013; and

29 (3) three members in 2014.

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

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