

[First Reprint]

ASSEMBLY, No. 2658

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED MARCH 8, 2012

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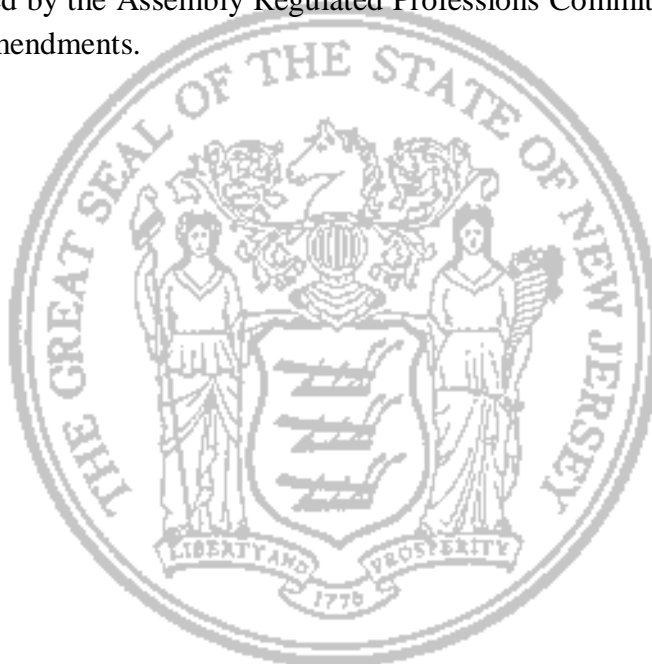
District 35 (Bergen and Passaic)

SYNOPSIS

“Common Interest Community Manager Licensing Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Regulated Professions Committee on June 18, 2012, with amendments.



(Sponsorship Updated As Of: 6/26/2012)

1 AN ACT providing for the licensing of common interest community
2 managers, supplementing Title 45 of the Revised Statutes and
3 amending various parts of the statutory law.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. (New section) Sections 1 through 12 of this act shall be
9 known and may be cited as the “Common Interest Community
10 Manager Licensing Act.”

11

12 2. (New section) The Legislature finds and declares that the
13 citizens and residents of the State of New Jersey are entitled to the
14 maximum protection practicable when living in a community
15 association, and that they be protected by the setting of clear
16 licensing requirements for persons engaging in the practice of
17 providing management services to a community association. It is
18 therefore necessary and in the public interest to establish education,
19 training and experience standards and to provide for appropriate
20 examination of those persons who serve as common interest
21 community managers.

22

23 3. (New section) As used in this act:

24 “Board” means the “Common Interest Community Manager
25 Board established pursuant to section 4 of this act.

26 “Common interest community” or “common interest property”
27 means real estate described in a declaration, master deed,
28 proprietary lease, or such other instrument with respect to which a
29 person, by virtue of ownership of a unit, lot, membership certificate,
30 corporate shares, or such other evidence of individual title, is
31 obligated to pay for a share of real estate taxes, insurance
32 premiums, maintenance, or improvement of, or services or other
33 expenses related to, common areas, other units, or other real estate
34 described in that declaration, master deed, proprietary lease or such
35 other instrument.

36 “Common interest community manager” means an individual
37 who for compensation provides management services to a common
38 interest community.

39 “Community association” means a New Jersey corporate entity
40 formed to administer, manage, and operate the common affairs of
41 the owners of a common interest community and to maintain, repair
42 and replace a common interest property.

43 “Director” means the Director of the Division of Consumer
44 Affairs in the Department of Law and Public Safety.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ARP committee amendments adopted June 18, 2012.

1 “Licensed common interest community manager” means an
2 individual who is licensed pursuant to the provisions of this act.

3 “Provide management services” means to: act with the authority
4 of a community association in its business, operational, legal,
5 financial and other transactions with association members and with
6 non-members; execute the resolutions and decisions of the
7 governing body of a community association or, with the authority of
8 the association, enforce the rights of the association secured by
9 statute, contract, covenant, rule or bylaw; collect, disburse or
10 otherwise exercise dominion or control over money or other
11 property belonging to a common interest community association,
12 provided that this shall not include a person who is the direct
13 salaried employee of a community association, a licensed common
14 interest community manager, or any entity lawfully engaged in
15 community association management, and whose sole participation
16 is performing accounting services with respect to the money of a
17 common interest community, including the receipt of payments and
18 the preparation of checks or other methods of payment and does not
19 perform any other management services as defined in this section;
20 prepares budgets, financial statements or other financial reports for
21 a community association, provided that this shall not include a
22 person whose sole participation is to assist a common interest
23 community manager and who is a direct salaried employee of a
24 community association, a licensed common interest community
25 manager, or any entity engaged in community association
26 management, in the preparation of budgets, financial statements or
27 other financial reports for a community association; arrange,
28 conduct and coordinate meetings of a community association or the
29 governing body of a community association; or negotiate contracts
30 or otherwise coordinate or arrange for services or the purchase of
31 property and goods for or on behalf of a community association.

32
33 4. (New section) a. There is created within the Division of
34 Consumer Affairs in the Department of Law and Public Safety the
35 Common Interest Community Manager Board. The board shall
36 consist of nine members who are residents of the State of New
37 Jersey and who, except for the member from the department in the
38 Executive Branch of State Government, shall be appointed by the
39 Governor. In addition to the two public members appointed to
40 represent the interests of the public pursuant to the provisions of
41 subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2), one
42 member shall be from a department in the Executive Branch of
43 State Government who shall serve without compensation at the
44 pleasure of the Governor. The remaining six members shall have
45 been actively engaged in providing management services for at least
46 five years immediately preceding their appointment, and except for
47 the members first appointed, shall be licensed common interest
48 community managers.

1 b. The Governor shall appoint each member, other than the
2 State executive department member, for a term of three years,
3 except that of the common interest community managers first
4 appointed, two shall serve for terms of three years, two shall serve
5 for terms of two years and two shall serve for terms of one year.
6 Any vacancy in the membership shall be filled for the unexpired
7 term in the manner provided by the original appointment. No
8 member of the board shall serve more than two successive terms in
9 addition to any unexpired term to which he has been appointed.
10 The Governor may remove any member of the board, other than the
11 State executive department member, for cause.

12 c. Members of the board shall be compensated and reimbursed
13 for actual travel, incidental, and clerical expenses necessarily
14 incurred in carrying out the provisions of this act.
15

16 5. (New section) The board shall organize within 30 days after
17 the appointment of its members and shall annually elect from
18 among its members a chairperson and a vice-chairperson. The
19 board shall meet twice a year and hold additional meetings as
20 necessary to discharge its duties. A majority of the board
21 membership shall constitute a quorum.
22

23 6. (New section) The board shall, in addition to other powers
24 and duties it may possess by law:

- 25 a. Administer the provisions of this act;
- 26 b. Issue and renew licenses to common interest community
27 managers pursuant to the provisions of this act;
- 28 c. Adopt a code of ethics for common interest community
29 managers;
- 30 d. Examine, evaluate and approve all examinations and
31 procedures;
- 32 e. Adopt a seal which shall be affixed to all licenses issued by
33 it;
- 34 f. Maintain a record of each common interest community
35 manager licensed in this State and the date and number of his
36 license;
- 37 g. Annually publish a list of the names and addresses of all
38 persons who are licensed under this act;
- 39 h. Establish standards for continuing education as provided in
40 section 12 of this act;
- 41 i. Adopt rules and regulations pursuant to the “Administrative
42 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) as it may
43 deem necessary to enable it to perform its duties under and to
44 enforce the provisions of this act; and
- 45 j. Prescribe or change the charges for examinations, licensures,
46 renewals and other services performed pursuant to P.L.1974, c.46
47 (C.45:1-3.1 et seq.).

1 7. (New section) No person shall engage in the practice of
2 providing, or hold himself out as being able to provide management
3 services to a community association unless licensed in accordance
4 with the provisions of this act.

5
6 8. (New section) The provisions of this act shall not apply to:

7 a. An officer or member of a community association who, for
8 no compensation or expectation thereof, performs the acts or
9 services of a common interest community manager;

10 b. The acts or services of an attorney at law licensed in this
11 State who is engaged to represent a community association or
12 common interest community manager in any business which
13 constitutes the practice of law;

14 c. The acts or services of a real estate broker, broker-
15 salesperson or salesperson licensed in this State who is engaged
16 ¹[by a community association to sell or rent real property belonging
17 to the association] in the performance of his duties as provided in
18 R.S. 45:15-3¹;

19 d. The acts or services of any person regulated by this State as
20 a certified public accountant, professional engineer, insurance agent
21 or broker, or any other person in any other related profession
22 requiring registration, certification or licensure by the State, who is
23 acting within the scope of practice of his profession;

24 e. A person who is the direct salaried employee of a
25 community association, a licensed common interest community
26 manager, or any entity lawfully engaged in community association
27 management while performing clerical or ministerial functions
28 under the direction and control of a community association, a
29 licensed common interest community manager, or any entity
30 lawfully engaged in community management;

31 f. A person who acts solely in the role of a superintendent for,
32 or providing maintenance services to, a common interest
33 community;

34 g. A person who acts as a receiver or trustee in bankruptcy in
35 the performance of duties or a person who acts under a court order
36 from providing management services for a common interest
37 community; or

38 h. A declarant.
39

40 9. (New section) To be eligible to be licensed as a common
41 interest community manager, an applicant shall fulfill the following
42 requirements:

43 a. Be of good moral character;

44 b. Be at least 18 years of age; and

45 c. (1) Have completed a training program approved by the
46 board, and successfully passed an examination approved or
47 developed by the board; or

1 (2) Have passed an examination that is developed in accordance
2 with national standards accredited by the National Commission for
3 Certifying Agencies.

4 d. Notwithstanding the provisions of subsections a., b., and c.
5 of this section, for 180 days after the date procedures are
6 established by the board for applying for licensure under the
7 provisions of this act, upon payment to the board of a fee and the
8 submission of a written application provided by the board, the board
9 shall issue to an individual of good moral character a common
10 interest community manager license provided the individual: (1) has
11 been actively engaged in providing management services for at least
12 12-months before applying for such license; and (2) ¹holds an
13 active designation from the National Board of Certification of
14 Community Association Managers, Community Associations
15 Institute or the Institute of Real Estate Management as: a
16 Professional Community Association Manager (PCAM); an
17 Association Management Specialist (AMS); a Certified Manager of
18 Community Associations (CMCA); a Certified Property Manager
19 (CPM); or Accredited Residential Manager (ARM)] successfully
20 demonstrates completion of a training program and examination
21 that is the same or substantially similar, as determined by the board,
22 to that which is required pursuant to subsection c. of this section¹.

23
24 10. (New section) ¹a. ¹No licensed common interest community
25 manager ¹or the common interest community management agency
26 with which the manager is employed¹ shall control, collect, have
27 access to, or disburse funds of a community association unless, at
28 all times during which the common interest community manager
29 collects, has access to, or disburses such funds, there is in effect ¹[,
30 a fidelity bond] employee dishonesty insurance¹ in conformity with
31 the following:

32 ¹[a. The fidelity bond shall be in favor of the State of New
33 Jersey in an amount established by the Director of the Division of
34 Consumer Affairs, by regulation, by a company authorized to
35 transact business in this State, and except as provided in subsection
36 b. of this section shall cover the licensee by either his management
37 company or the community association, or both; and

38 b. A licensed common interest community manager who
39 provides management services for more than one association shall
40 maintain separate bank accounts for each association. Funds in
41 each association bank account shall not be commingled with the
42 fund of the licensee or another association. The maintenance of
43 bank accounts by a licensee shall be custodial and in the name of
44 the association]

45 (1) There is a policy of employee dishonesty insurance in place
46 to insure against loss for theft of community association funds;

1 (2) The employee dishonesty insurance policy provides
2 coverage in an amount that is not less than all moneys under the
3 control of the common interest community manager or the
4 employing common interest community management agency for the
5 association;

6 (3) The employee dishonesty insurance covers the common
7 interest community manager and all partners, officers, and
8 employees of the common interest community management agency
9 with whom the manager is employed during the term of the
10 insurance coverage, as well as the association officers, directors,
11 and employees;

12 (4) The insurance company issuing the employee dishonesty
13 insurance may not cancel or refuse to renew the insurance policy
14 without giving at least 10 days prior written notice; and

15 (5) The association secures and pays for the employee
16 dishonesty insurance unless an agreement between the community
17 association and the common interest community manager or the
18 common interest community management agency provides to the
19 contrary. The common interest community manager and the
20 common interest community management agency shall be named as
21 additional insured parties on the policy of employee dishonesty
22 insurance.

23 b. A common interest community manager or common interest
24 community management agency that provides common interest
25 community management services for more than one community
26 association shall maintain separate, segregated accounts for each
27 community association or, with the consent of the association,
28 combine the accounts of one or more associations, but in that event,
29 separately account for the funds of each association. The funds
30 shall not, in any event, be commingled with the common interest
31 community manager's or common interest community management
32 agency's funds. The maintenance of such accounts shall be
33 custodial, and such accounts shall be in the name of the respective
34 community association or common interest community manager or
35 common interest community management agency as the agent for
36 the association.

37 c. The common interest community manager or common
38 interest community management agency shall obtain the appropriate
39 general liability and errors and omissions insurance, as determined
40 by the board, to cover any losses or claims against community
41 association clients¹.

42
43 11. (New section) All licenses shall be issued for a two-year
44 period upon the payment of the licensure fee prescribed by the
45 board and shall be renewed upon filing of a renewal application, the
46 payment of a licensure fee and presentation of satisfactory evidence
47 that the renewal applicant has successfully completed the
48 continuing education and ¹['bonding'] insurance¹ requirements

1 prescribed by this act. A license may be renewed without
2 reexamination, if the application for renewal is made within 30 days
3 next preceding or following the scheduled expiration date. Any
4 applicant for renewal making application at any time subsequent to
5 the 30th day next following the scheduled expiration date may be
6 required by the board to be reexamined, and that person shall not
7 continue to act as a licensed common interest community manager
8 until a valid license has been secured.

9 Any license expiring while the holder is outside the continental
10 limits of the United States in connection with any project
11 undertaken by the government of the United States, or while in the
12 services of the Armed Forces of the United States, shall be renewed
13 without the holder being required to be reexamined, upon payment
14 of the prescribed fee at any time within four months after the
15 person's return to the United States or discharge from the armed
16 forces, whichever is later.

17
18 12. (New section) a. The board shall require each person
19 licensed as a common interest community manager, as a condition
20 for biennial license renewal pursuant to section 1 of P.L.1972, c.108
21 (C.45:1-7), to complete any continuing education requirements
22 imposed by the board pursuant to this section.

23 b. The board shall:

24 (1) Establish standards for continuing common interest
25 community manager education, including the number of credits,
26 which shall not exceed 18 credit hours biennially, of which not less
27 than three credit hours shall be in professional practice ethics;

28 (2) Approve educational programs offering credit towards
29 continuing common interest community manager education
30 requirements; and

31 (3) Approve other equivalent educational programs and
32 establish procedures for the issuance of credit upon satisfactory
33 proof of the completion of these programs. In the case of
34 continuing education courses and programs, each hour of
35 instruction shall be equivalent to one credit.

36
37 13. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read
38 as follows:

39 1. The provisions of this act shall apply to the following boards
40 and commissions: the New Jersey State Board of Accountancy, the
41 New Jersey State Board of Architects, the New Jersey State Board
42 of Cosmetology and Hairstyling, the Board of Examiners of
43 Electrical Contractors, the New Jersey State Board of Dentistry, the
44 State Board of Mortuary Science of New Jersey, the State Board of
45 Professional Engineers and Land Surveyors, the State Board of
46 Marriage and Family Therapy Examiners, the State Board of
47 Medical Examiners, the New Jersey Board of Nursing, the New
48 Jersey State Board of Optometrists, the State Board of Examiners of

1 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
2 Pharmacy, the State Board of Professional Planners, the State Board
3 of Psychological Examiners, the State Board of Examiners of
4 Master Plumbers, the New Jersey Real Estate Commission, the
5 State Board of Court Reporting, the State Board of Veterinary
6 Medical Examiners, the Radiologic Technology Board of
7 Examiners, the Acupuncture Examining Board, the State Board of
8 Chiropractic Examiners, the State Board of Respiratory Care, the
9 State Real Estate Appraiser Board, the State Board of Social Work
10 Examiners, the State Board of Examiners of Heating, Ventilating,
11 Air Conditioning and Refrigeration Contractors, the State Board of
12 Physical Therapy Examiners, the Orthotics and Prosthetics Board of
13 Examiners, the New Jersey Cemetery Board, the State Board of
14 Polysomnography, the New Jersey Board of Massage and
15 Bodywork Therapy, the Common Interest Community Manager
16 Board, the Genetic Counseling Advisory Committee and any other
17 entity hereafter created under Title 45 to license or otherwise
18 regulate a profession or occupation.
19 (cf: P.L.2009, c.41, s.11)
20

21 14. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read
22 as follows:

23 1. The provisions of this act shall apply to the following boards
24 and commissions: the New Jersey State Board of Accountancy, the
25 New Jersey State Board of Architects, the New Jersey State Board
26 of Cosmetology and Hairstyling, the Board of Examiners of
27 Electrical Contractors, the New Jersey State Board of Dentistry, the
28 State Board of Mortuary Science of New Jersey, the State Board of
29 Professional Engineers and Land Surveyors, the State Board of
30 Marriage and Family Therapy Examiners, the State Board of
31 Medical Examiners, the New Jersey Board of Nursing, the New
32 Jersey State Board of Optometrists, the State Board of Examiners of
33 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
34 Pharmacy, the State Board of Professional Planners, the State Board
35 of Psychological Examiners, the State Board of Examiners of
36 Master Plumbers, the State Board of Court Reporting, the State
37 Board of Veterinary Medical Examiners, the Radiologic
38 Technology Board of Examiners, the Acupuncture Examining
39 Board, the State Board of Chiropractic Examiners, the State Board
40 of Respiratory Care, the State Real Estate Appraiser Board, the New
41 Jersey Cemetery Board, the State Board of Social Work Examiners,
42 the State Board of Examiners of Heating, Ventilating, Air
43 Conditioning and Refrigeration Contractors, the State Board of
44 Physical Therapy Examiners, the State Board of Polysomnography,
45 the Orthotics and Prosthetics Board of Examiners, the New Jersey
46 Board of Massage and Bodywork Therapy, the Common Interest
47 Community Manager Board, the Genetic Counseling Advisory

1 Committee and any other entity hereafter created under Title 45 to
2 license or otherwise regulate a profession or occupation.

3 (cf: P.L.2009, c.41, s.12)

4
5 15. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read
6 as follows:

7 2. The provisions of this act shall apply to the following boards
8 and all professions or occupations regulated by, through or with the
9 advice of those boards: the New Jersey State Board of
10 Accountancy, the New Jersey State Board of Architects, the New
11 Jersey State Board of Cosmetology and Hairstyling, the Board of
12 Examiners of Electrical Contractors, the New Jersey State Board of
13 Dentistry, the State Board of Mortuary Science of New Jersey, the
14 State Board of Professional Engineers and Land Surveyors, the
15 State Board of Marriage and Family Therapy Examiners, the State
16 Board of Medical Examiners, the New Jersey Board of Nursing, the
17 New Jersey State Board of Optometrists, the State Board of
18 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
19 the Board of Pharmacy, the State Board of Professional Planners,
20 the State Board of Psychological Examiners, the State Board of
21 Examiners of Master Plumbers, the State Board of Court Reporting,
22 the State Board of Veterinary Medical Examiners, the State Board
23 of Chiropractic Examiners, the State Board of Respiratory Care, the
24 State Real Estate Appraiser Board, the State Board of Social Work
25 Examiners, the State Board of Examiners of Heating, Ventilating,
26 Air Conditioning and Refrigeration Contractors, the State Board of
27 Physical Therapy Examiners, the State Board of Polysomnography,
28 the Professional Counselor Examiners Committee, the New Jersey
29 Cemetery Board, the Orthotics and Prosthetics Board of Examiners,
30 the Occupational Therapy Advisory Council, the Electrologists
31 Advisory Committee, the Acupuncture Advisory Committee, the
32 Alcohol and Drug Counselor Committee, the Athletic Training
33 Advisory Committee, the Certified Psychoanalysts Advisory
34 Committee, the Fire Alarm, Burglar Alarm, and Locksmith
35 Advisory Committee, the Home Inspection Advisory Committee,
36 the Interior Design Examination and Evaluation Committee, the
37 Hearing Aid Dispensers Examining Committee, the Landscape
38 Architect Examination and Evaluation Committee, the Perfusionists
39 Advisory Committee, the Physician Assistant Advisory Committee,
40 the Audiology and Speech-Language Pathology Advisory
41 Committee, the New Jersey Board of Massage and Bodywork
42 Therapy, the Common Interest Community Manager Board, the
43 Genetic Counseling Advisory Committee and any other entity
44 hereafter created under Title 45 to license or otherwise regulate a
45 profession or occupation.

46 (cf: P.L.2009, c.41, s.13)

1 16. This act shall take effect immediately, except that section 7
2 shall take effect 360 days following the appointment and
3 qualification of the board members, and provided that the director
4 and the board may take such anticipatory action as may be
5 necessary to effectuate that provision of the act.