

[Second Reprint]

ASSEMBLY, No. 2658

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MARCH 8, 2012

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman DAVID P. RIBLE

District 30 (Monmouth and Ocean)

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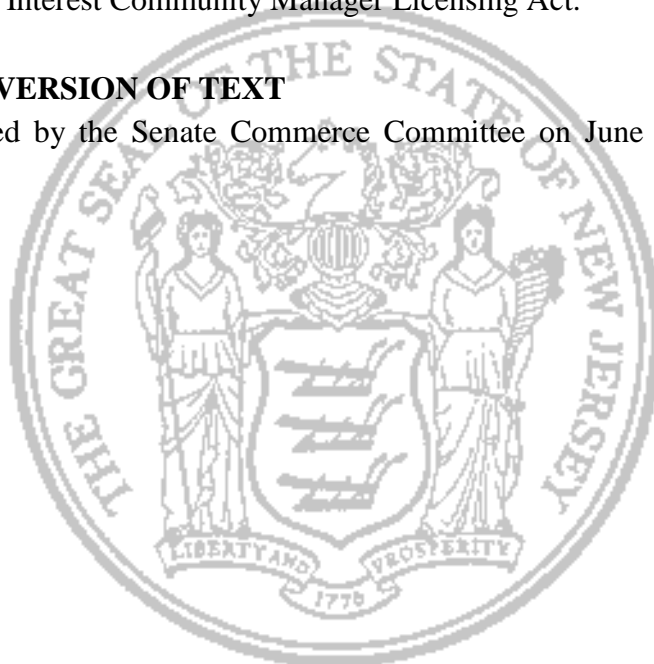
Senators Van Drew, Gordon, Assemblywomen Jimenez and Mosquera

SYNOPSIS

“Common Interest Community Manager Licensing Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on June 13, 2013, with amendments.



(Sponsorship Updated As Of: 1/14/2014)

1 AN ACT providing for the licensing of common interest community
2 managers ²**[.]** and² supplementing Title ²**[45]** 52² of the
3 Revised Statutes ²**[and amending various parts of the statutory**
4 **law]**².

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

8
9 1. (New section) Sections 1 through ²**[12]** 15² of this act shall
10 be known and may be cited as the “Common Interest Community
11 Manager Licensing Act.”

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

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

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

27 ²“Commissioner” means the Commissioner of Community
28 Affairs.²

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

39 “Common interest community manager” means an individual
40 who for compensation provides management services to a common
41 interest community.

42 “Community association” means a New Jersey corporate ¹or
43 unincorporated¹ entity formed to administer, manage, and operate

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.

²Senate SCM committee amendments adopted June 13, 2013.

1 the common affairs of the owners of a common interest community
2 and to maintain, repair and replace a common interest property.

3 ²["Director" means the Director of the Division of Consumer
4 Affairs in the Department of Law and Public Safety.]²

5 "Licensed common interest community manager" means an
6 individual who is licensed pursuant to the provisions of this act.

7 "Provide management services" means to: act with the authority
8 of a community association in its business, operational, legal,
9 financial and other transactions with association members and with
10 non-members; execute the resolutions and decisions of the
11 governing body of a community association or, with the authority of
12 the association, enforce the rights of the association secured by
13 statute, contract, covenant, rule or bylaw; collect, disburse or
14 otherwise exercise dominion or control over money or other
15 property belonging to a common interest community association ²[,
16 provided that this shall not include a person who is the direct
17 salaried employee of a community association, a licensed common
18 interest community manager, or any entity lawfully engaged in
19 community association management, and whose sole participation
20 is performing accounting services with respect to the money of a
21 common interest community, including the receipt of payments and
22 the preparation of checks or other methods of payment and does not
23 perform any other management services as defined in this section;
24 prepares] : prepare² budgets, financial statements or other financial
25 reports for a community association ²[, provided that this shall not
26 include a person whose sole participation is to assist a common
27 interest community manager and who is a direct salaried employee
28 of a community association, a licensed common interest community
29 manager, or any entity engaged in community association
30 management, in the preparation of budgets, financial statements or
31 other financial reports for a community association]²; arrange,
32 conduct and coordinate meetings of a community association or the
33 governing body of a community association; or negotiate contracts
34 or otherwise coordinate or arrange for services or the purchase of
35 property and goods for or on behalf of a community association.

36
37 4. (New section) a. There is created within the ²["Division of
38 Consumer Affairs in the Department of Law and Public Safety"]
39 Department of Community Affairs² the Common Interest
40 Community Manager Board. The board shall consist of nine
41 members who are residents of the State of New Jersey and who,
42 except for the member from the department in the Executive Branch
43 of State Government, shall be appointed by the Governor. In
44 addition to the two public members appointed to represent the
45 interests of the public ²["pursuant to the provisions of subsection b.
46 of section 2 of P.L.1971, c.60 (C.45:1-2.2)"]², one member shall be
47 from a department in the Executive Branch of State Government

1 who shall serve without compensation at the pleasure of the
2 Governor. The remaining six members shall have been actively
3 engaged in providing management services for at least five years
4 immediately preceding their appointment, and except for the
5 members first appointed, shall be licensed common interest
6 community managers.

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

18 c. ²~~Members of the board shall be compensated and~~
19 ~~reimbursed for actual travel, incidental, and clerical expenses~~
20 ~~necessarily incurred in carrying out the provisions of this act.]~~ The
21 powers of the board are vested in the members thereof in office, and
22 a majority of the total authorized membership of the board is
23 required to exercise its powers at any meeting thereof; provided,
24 however, that if a board member has resigned or otherwise vacated
25 his membership appointment before the expiration of his term, or if
26 a board member does not serve after the expiration of his term
27 pending the appointment of a successor, then, until such vacancies
28 are filled, a majority of the currently serving membership of the
29 board is required to exercise its powers of any meeting thereof.

30 d. The members of the board shall serve without
31 compensation.²

32

33 5. (New section) The board shall organize within 30 days after
34 the appointment of its members and shall annually elect from
35 among its members a chairperson and a vice-chairperson. The
36 board shall meet twice a year and hold additional meetings as
37 necessary to discharge its duties. A majority of the board
38 membership shall constitute a quorum.

39

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

42 a. Administer the provisions of this act;

43 b. Issue and renew licenses to common interest community
44 managers pursuant to the provisions of this act;

45 c. Adopt a code of ethics for common interest community
46 managers;

47 d. Examine, evaluate and approve all examinations and
48 procedures;

- 1 e. Adopt a seal which shall be affixed to all licenses issued by
2 it;
- 3 f. Maintain a record of each common interest community
4 manager licensed in this State and the date and number of his
5 license;
- 6 g. Annually publish a list of the names and addresses of all
7 persons who are licensed under this act;
- 8 h. Establish standards for continuing education as provided in
9 section 12 of this act;
- 10 i. Adopt rules and regulations pursuant to the “Administrative
11 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) as it may
12 deem necessary to enable it to perform its duties under and to
13 enforce the provisions of this act; and
- 14 j. Prescribe or change the charges for examinations, licensures,
15 renewals and other services performed ² [pursuant to P.L.1974, c.46
16 (C.45:1-3.1 et seq.)]².
- 17
- 18 7. (New section) No person shall engage in the practice of
19 providing, or hold himself out as being able to provide management
20 services to a community association unless licensed in accordance
21 with the provisions of this act.
- 22
- 23 8. (New section) The provisions of this act shall not apply to:
- 24 a. An officer or member of a community association who, for
25 no compensation or expectation thereof, performs the acts or
26 services of a common interest community manager;
- 27 b. The acts or services of an attorney at law licensed in this
28 State who is engaged to represent a community association or
29 common interest community manager in any business which
30 constitutes the practice of law;
- 31 c. The acts or services of a real estate broker, broker-
32 salesperson or salesperson licensed in this State who is engaged
33 ¹ [by a community association to sell or rent real property belonging
34 to the association] in the performance of his duties as provided in
35 R.S. 45:15-3¹;
- 36 d. The acts or services of any person regulated by this State as
37 a certified public accountant, professional engineer, insurance agent
38 or broker, or any other person in any other related profession
39 requiring registration, certification or licensure by the State, who is
40 acting within the scope of practice of his profession;
- 41 e. A person who is the direct salaried employee of a
42 community association, a licensed common interest community
43 manager, or any entity lawfully engaged in community association
44 management ²: (1)² while performing clerical or ministerial
45 functions under the direction and control of a community
46 association, a licensed common interest community manager, or any
47 entity lawfully engaged in community management; ² (2) whose sole

1 participation is performing accounting services with respect to the
2 money of a common interest community, including the receipt of
3 payments and the preparation of checks or other methods of
4 payment and who does not provide any other management services
5 as defined in section 3 of this act; or (3) whose sole participation is
6 to assist a common interest community manager in the preparation
7 of budgets, financial statements or other financial reports for a
8 community association;²

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

12 g. A person who acts as a receiver or trustee in bankruptcy in
13 the performance of duties or a person who acts under a court order
14 from providing management services for a common interest
15 community; or

16 h. A declarant.

17

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

21 a. Be of good moral character;

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

23 c. (1) Have completed a training program approved by the
24 board, and successfully passed an examination approved or
25 developed by the board; or

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

29 d. Notwithstanding the provisions of subsections a., b., and c.
30 of this section, for 180 days after the date procedures are
31 established by the board for applying for licensure under the
32 provisions of this act, upon payment to the board of a fee and the
33 submission of a written application provided by the board, the board
34 shall issue to an individual of good moral character a common
35 interest community manager license provided the individual: (1) has
36 been actively engaged in providing management services for at least
37 12-months before applying for such license; and (2) ¹【holds an
38 active designation from the National Board of Certification of
39 Community Association Managers, Community Associations
40 Institute or the Institute of Real Estate Management as: a
41 Professional Community Association Manager (PCAM); an
42 Association Management Specialist (AMS); a Certified Manager of
43 Community Associations (CMCA); a Certified Property Manager
44 (CPM); or Accredited Residential Manager (ARM)】 successfully
45 demonstrates completion of a training program and examination
46 that is the same or substantially similar, as determined by the board,
47 to that which is required pursuant to subsection c. of this section¹.

1 10. (New section) ¹a. No licensed common interest community
2 manager ¹or the common interest community management agency
3 with which the manager is employed¹ shall control, collect, have
4 access to, or disburse funds of a community association unless, at
5 all times during which the common interest community manager
6 collects, has access to, or disburses such funds, there is in effect¹ **],**
7 a fidelity bond **]** employee dishonesty insurance¹ in conformity with
8 the following:

9 ¹**[**a. The fidelity bond shall be in favor of the State of New
10 Jersey in an amount established by the Director of the Division of
11 Consumer Affairs, by regulation, by a company authorized to
12 transact business in this State, and except as provided in subsection
13 b. of this section shall cover the licensee by either his management
14 company or the community association, or both; and

15 b. A licensed common interest community manager who
16 provides management services for more than one association shall
17 maintain separate bank accounts for each association. Funds in
18 each association bank account shall not be commingled with the
19 fund of the licensee or another association. The maintenance of
20 bank accounts by a licensee shall be custodial and in the name of
21 the association **]**

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

24 (2) The employee dishonesty insurance policy provides
25 coverage in an amount that is not less than all moneys under the
26 control of the common interest community manager or the
27 employing common interest community management agency for the
28 association;

29 (3) The employee dishonesty insurance covers the common
30 interest community manager and all partners, officers, and
31 employees of the common interest community management agency
32 with whom the manager is employed during the term of the
33 insurance coverage, as well as the association officers, directors,
34 and employees;

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

38 (5) The association secures and pays for the employee
39 dishonesty insurance unless an agreement between the community
40 association and the common interest community manager or the
41 common interest community management agency provides to the
42 contrary. The common interest community manager and the
43 common interest community management agency shall be named as
44 additional insured parties on the policy of employee dishonesty
45 insurance.

46 b. A common interest community manager or common interest
47 community management agency that provides common interest

1 community management services for more than one community
2 association shall maintain separate, segregated accounts for each
3 community association ² [or, with the consent of the association,
4 combine the accounts of one or more associations, but in that event,
5 separately account for the funds of each association. The funds
6 shall not, in any event, be commingled with the common interest
7 community manager's or common interest community management
8 agency's funds. The maintenance of such accounts shall be
9 custodial, and such accounts shall be in the name of the respective
10 community association or common interest community manager or
11 common interest community management agency as the agent for
12 the association]².

13 c. The common interest community manager or common
14 interest community management agency shall obtain the appropriate
15 general liability and errors and omissions insurance, as determined
16 by the board, to cover any losses or claims against community
17 association clients¹.

18
19 11. (New section) All licenses shall be issued for a two-year
20 period upon the payment of the licensure fee prescribed by the
21 board and shall be renewed upon filing of a renewal application, the
22 payment of a licensure fee and presentation of satisfactory evidence
23 that the renewal applicant has successfully completed the
24 continuing education and ¹[bonding] insurance¹ requirements
25 prescribed by this act. A license may be renewed without
26 reexamination, if the application for renewal is made within 30 days
27 next preceding or following the scheduled expiration date. Any
28 applicant for renewal making application at any time subsequent to
29 the 30th day next following the scheduled expiration date may be
30 required by the board to be reexamined, and that person shall not
31 continue to act as a licensed common interest community manager
32 until a valid license has been secured.

33 Any license expiring while the holder is outside the continental
34 limits of the United States in connection with any project
35 undertaken by the government of the United States, or while in the
36 services of the Armed Forces of the United States, shall be renewed
37 without the holder being required to be reexamined, upon payment
38 of the prescribed fee at any time within four months after the
39 person's return to the United States or discharge from the armed
40 forces, whichever is later.

41
42 12. (New section) a. The board shall require each person
43 licensed as a common interest community manager, as a condition
44 for biennial license renewal ²[pursuant to section 1 of P.L.1972,
45 c.108 (C.45:1-7)]², to complete any continuing education
46 requirements imposed by the board pursuant to this section.

47 b. The board shall:

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

5 (2) Approve educational programs offering credit towards
6 continuing common interest community manager education
7 requirements; and

8 (3) Approve other equivalent educational programs and
9 establish procedures for the issuance of credit upon satisfactory
10 proof of the completion of these programs. In the case of
11 continuing education courses and programs, each hour of
12 instruction shall be equivalent to one credit.

13

14 ²¶13. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to
15 read as follows:

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

44 (cf: P.L.2009, c.41, s.11)¶²

45

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

1 1. The provisions of this act shall apply to the following boards
2 and commissions: the New Jersey State Board of Accountancy, the
3 New Jersey State Board of Architects, the New Jersey State Board
4 of Cosmetology and Hairstyling, the Board of Examiners of
5 Electrical Contractors, the New Jersey State Board of Dentistry, the
6 State Board of Mortuary Science of New Jersey, the State Board of
7 Professional Engineers and Land Surveyors, the State Board of
8 Marriage and Family Therapy Examiners, the State Board of
9 Medical Examiners, the New Jersey Board of Nursing, the New
10 Jersey State Board of Optometrists, the State Board of Examiners of
11 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
12 Pharmacy, the State Board of Professional Planners, the State Board
13 of Psychological Examiners, the State Board of Examiners of
14 Master Plumbers, the State Board of Court Reporting, the State
15 Board of Veterinary Medical Examiners, the Radiologic
16 Technology Board of Examiners, the Acupuncture Examining
17 Board, the State Board of Chiropractic Examiners, the State Board
18 of Respiratory Care, the State Real Estate Appraiser Board, the New
19 Jersey Cemetery Board, the State Board of Social Work Examiners,
20 the State Board of Examiners of Heating, Ventilating, Air
21 Conditioning and Refrigeration Contractors, the State Board of
22 Physical Therapy Examiners, the State Board of Polysomnography,
23 the Orthotics and Prosthetics Board of Examiners, the New Jersey
24 Board of Massage and Bodywork Therapy, the Common Interest
25 Community Manager Board, the Genetic Counseling Advisory
26 Committee and any other entity hereafter created under Title 45 to
27 license or otherwise regulate a profession or occupation.

28 (cf: P.L.2009, c.41, s.12)]²

29

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

32 2. The provisions of this act shall apply to the following boards
33 and all professions or occupations regulated by, through or with the
34 advice of those boards: the New Jersey State Board of
35 Accountancy, the New Jersey State Board of Architects, the New
36 Jersey State Board of Cosmetology and Hairstyling, the Board of
37 Examiners of Electrical Contractors, the New Jersey State Board of
38 Dentistry, the State Board of Mortuary Science of New Jersey, the
39 State Board of Professional Engineers and Land Surveyors, the
40 State Board of Marriage and Family Therapy Examiners, the State
41 Board of Medical Examiners, the New Jersey Board of Nursing, the
42 New Jersey State Board of Optometrists, the State Board of
43 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
44 the Board of Pharmacy, the State Board of Professional Planners,
45 the State Board of Psychological Examiners, the State Board of
46 Examiners of Master Plumbers, the State Board of Court Reporting,
47 the State Board of Veterinary Medical Examiners, the State Board
48 of Chiropractic Examiners, the State Board of Respiratory Care, the

1 State Real Estate Appraiser Board, the State Board of Social Work
2 Examiners, the State Board of Examiners of Heating, Ventilating,
3 Air Conditioning and Refrigeration Contractors, the State Board of
4 Physical Therapy Examiners, the State Board of Polysomnography,
5 the Professional Counselor Examiners Committee, the New Jersey
6 Cemetery Board, the Orthotics and Prosthetics Board of Examiners,
7 the Occupational Therapy Advisory Council, the Electrologists
8 Advisory Committee, the Acupuncture Advisory Committee, the
9 Alcohol and Drug Counselor Committee, the Athletic Training
10 Advisory Committee, the Certified Psychoanalysts Advisory
11 Committee, the Fire Alarm, Burglar Alarm, and Locksmith
12 Advisory Committee, the Home Inspection Advisory Committee,
13 the Interior Design Examination and Evaluation Committee, the
14 Hearing Aid Dispensers Examining Committee, the Landscape
15 Architect Examination and Evaluation Committee, the Perfusionists
16 Advisory Committee, the Physician Assistant Advisory Committee,
17 the Audiology and Speech-Language Pathology Advisory
18 Committee, the New Jersey Board of Massage and Bodywork
19 Therapy, the Common Interest Community Manager Board, the
20 Genetic Counseling Advisory Committee and any other entity
21 hereafter created under Title 45 to license or otherwise regulate a
22 profession or occupation.

23 (cf: P.L.2009, c.41, s.13)]²
24

25 ²13. a. The board may refuse to admit a person to an examination
26 or may refuse to issue or may suspend or revoke any license issued
27 by the board upon proof that the applicant or holder of that license:

28 (1) Has obtained a license or authorization to sit for an
29 examination, as the case may be, through fraud, deception, or
30 misrepresentation;

31 (2) Has engaged in the use or employment of dishonesty, fraud,
32 deception, misrepresentation, false promise or false pretense;

33 (3) Has engaged in gross negligence or gross incompetence;

34 (4) Has engaged in repeated acts of negligence or incompetence;

35 (5) Has engaged in occupational misconduct as may be
36 determined by the board;

37 (6) Has been convicted of any crime involving moral turpitude
38 or any crime relating adversely to the activity regulated by the
39 board. For the purpose of this paragraph a plea of guilty, non vult,
40 nolo contendere or any other such disposition of alleged criminal
41 activity shall be deemed a conviction;

42 (7) Has had his authority to engage in any activity regulated by
43 the board revoked or suspended by any other state, agency or
44 authority for reasons consistent with this section;

45 (8) Has violated or failed to comply with the provisions of this
46 act, including, but not limited to, the continuing education and
47 employee dishonesty insurance requirements.

1 b. The commissioner shall afford a common interest
2 community manager an opportunity for hearing before a license is
3 revoked. The board shall afford a common interest community
4 manager an opportunity for hearing after issuing an order to
5 suspend a license.²

6
7 ²14. a. If any person violates any provisions of this act, or any
8 code, rule, regulation, or order adopted or issued pursuant thereto,
9 the commissioner may institute a civil action in a court of
10 competent jurisdiction for injunctive or any other appropriate relief
11 to prohibit and prevent a violation or violations and the court may
12 proceed in the action in a summary manner.

13 b. If any person violates the provisions of this act or any code,
14 rule, regulation or order adopted or issued pursuant thereto, the
15 commissioner may assess a civil administrative penalty of not more
16 than \$2,500 for the first offense and not more than \$5,000 for the
17 second and each subsequent offense. If the violation is of a
18 continuing nature, each day during which it continues shall
19 constitute an additional, separate, and distinct offense. No civil
20 administrative penalty shall be levied except upon an administrative
21 order issued pursuant to section 15 of this act.

22 c. The commissioner is authorized and empowered to
23 compromise and settle any claim for a penalty in an amount in the
24 discretion of the commissioner as is appropriate and equitable under
25 all circumstances.

26 d. Any person who violates a provision of this act or any code,
27 rule, regulation, or order adopted or issued pursuant thereto, or a
28 court order issued pursuant to subsection a. of this section, or who
29 fails to pay a civil administrative penalty in full pursuant to
30 subsection b. of this section, is subject, upon order of the court, to a
31 civil penalty of not more than \$2,500 for the first offense and not
32 more than \$5,000 for the second and each subsequent offense.

33 e. If the violation is of a continuing nature, each day during
34 which the violation continues, or each day in which the civil
35 administrative penalty is not paid in full, constitutes an additional,
36 separate and distinct offense. Any penalty imposed under this
37 section may be recovered with costs in a summary proceeding
38 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
39 c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal
40 court shall have jurisdiction to enforce the "Penalty Enforcement
41 Law of 1999" in connection with this act.²

42
43 ²15. a. Should the commissioner have cause to believe that any
44 person is in violation of any provision of this act or rules and
45 regulations promulgated pursuant thereto, the commissioner may
46 initiate an investigation. If upon investigation the commissioner
47 determines that there has been a violation of the provisions of this

1 act or rules and regulations promulgated pursuant thereto, the
2 commissioner shall be authorized to:

3 (1) issue a letter of warning, reprimand, or censure with regard
4 to any act, conduct, or practice which in the judgment of the
5 commissioner upon consideration of all relevant facts and
6 circumstances does not warrant an initiation of formal action;

7 (2) order any person violating any provision this act or rules and
8 regulations promulgated pursuant thereto to cease or desist from
9 future violations or to take such affirmative corrective action as
10 may be necessary with regard to any act or practice found unlawful
11 by the commissioner;

12 (3) order any person found to have violated any provision of this
13 act or rules and regulations promulgated pursuant thereto to restore
14 any person for whom management services work was done to his
15 position prior to performance of the work;

16 (4) assess a civil administrative penalty in accordance with
17 section 14 of this act;

18 (5) Bring a civil action for injunctive or any other appropriate
19 relief to prohibit and prevent a violation or violations in accordance
20 with section 14 of this act;

21 (6) Bring a civil action for a civil penalty in accordance with
22 section 14 of this act; or

23 (7) revoke or suspend a license pursuant to section 13 of this
24 act.

25 The use of any of the remedies specified under this section shall
26 not preclude use of any other remedy specified.

27 b. Any person to which an order or assessment of civil
28 administrative penalty or a notice of revocation of a license is
29 issued has 20 days from the receipt of the order to deliver to the
30 commissioner a written request for a hearing. Upon receipt of that
31 request, the commissioner shall determine whether to conduct the
32 hearing itself or refer the matter to the Office of Administrative
33 Law, which shall assign an Administrative Law Judge to conduct a
34 hearing in the form of a contested case pursuant to the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.). If the matter is referred to the Office of Administrative Law,
37 the commissioner shall affirm, reject, or modify the decision within
38 45 days of receipt of the Administrative Law Judge's initial decision
39 by issuing its own final decision. The commissioner's action shall
40 be considered the final agency action for the purposes of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), and shall be subject only to judicial review as provided in the
43 Rules of Court.

44 c. If no hearing is requested, an order becomes a final order
45 upon the expiration of the 20-day period. This final order shall be
46 considered the final agency action for the purposes of the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), and shall be subject only to judicial review as provided in the

1 Rules of Court. Payment of an administrative penalty is due when a
2 final order is issued or when the order becomes a final order.
3 Pending the determination by the commissioner and upon
4 application by a person to whom an order or notice of revocation is
5 issued, the commissioner may stay operation of an order upon such
6 terms and conditions as it deems proper.²

7
8 16. This act shall take effect immediately, except that section 7
9 shall take effect 360 days following the appointment and
10 qualification of the board members, and provided that the
11 ²**[director]** commissioner² and the board may take such
12 anticipatory action as may be necessary to effectuate that provision
13 of the act.