

[First Reprint]

**SENATE, No. 2578**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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INTRODUCED FEBRUARY 21, 2013

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Co-Sponsored by:**

**Senator Gordon**

**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: 1/10/2014)**

1 AN ACT providing for the licensing of common interest community  
2 managers **[.,] and<sup>1</sup>** supplementing Title **[45] 52<sup>1</sup>** of the  
3 Revised Statutes **[and amending various parts of the statutory**  
4 **law]**<sup>1</sup>.

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 **[12] 15<sup>1</sup>** 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 “Commissioner” means the Commissioner of Community  
28 Affairs.<sup>1</sup>

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 <sup>1</sup>or  
43 unincorporated<sup>1</sup> 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:

<sup>1</sup>Senate 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 <sup>1</sup>["Director" means the Director of the Division of Consumer  
4 Affairs in the Department of Law and Public Safety.]"<sup>1</sup>

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 <sup>1</sup>["  
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"] : prepare<sup>1</sup> budgets, financial statements or other financial  
25 reports for a community association <sup>1</sup>[" 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"]<sup>1</sup>; 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 <sup>1</sup>["Division of  
38 Consumer Affairs in the Department of Law and Public Safety"]  
39 Department of Community Affairs<sup>1</sup> 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 <sup>1</sup>["pursuant to the provisions of subsection b.  
46 of section 2 of P.L.1971, c.60 (C.45:1-2.2)"]<sup>1</sup>, 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. <sup>1</sup>~~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.<sup>1</sup>

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 <sup>1</sup>[pursuant to P.L.1974, c.46  
16 (C.45:1-3.1 et seq.)]<sup>1</sup>.

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 in  
33 the performance of his duties as provided in R.S. 45:15-3;
- 34 d. The acts or services of any person regulated by this State as  
35 a certified public accountant, professional engineer, insurance agent  
36 or broker, or any other person in any other related profession  
37 requiring registration, certification or licensure by the State, who is  
38 acting within the scope of practice of his profession;
- 39 e. A person who is the direct salaried employee of a  
40 community association, a licensed common interest community  
41 manager, or any entity lawfully engaged in community association  
42 management <sup>1</sup>: (1)<sup>1</sup> while performing clerical or ministerial  
43 functions under the direction and control of a community  
44 association, a licensed common interest community manager, or any  
45 entity lawfully engaged in community management; <sup>1</sup>(2) whose sole  
46 participation is performing accounting services with respect to the  
47 money of a common interest community, including the receipt of  
48 payments and the preparation of checks or other methods of

1 payment and who does not provide any other management services  
2 as defined in section 3 of this act; or (3) whose sole participation is  
3 to assist a common interest community manager in the preparation  
4 of budgets, financial statements or other financial reports for a  
5 community association;<sup>1</sup>

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

8 g. A person who acts as a receiver or trustee in bankruptcy in  
9 the performance of duties or a person who acts under a court order  
10 from providing management services for a common interest  
11 community; or

12 h. A declarant.

13

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

17 a. Be of good moral character;

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

19 c. (1) Have completed a training program approved by the  
20 board, and successfully passed an examination approved or  
21 developed by the board; or

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

25 d. Notwithstanding the provisions of subsections a., b., and c.  
26 of this section, for 180 days after the date procedures are  
27 established by the board for applying for licensure under the  
28 provisions of this act, upon payment to the board of a fee and the  
29 submission of a written application provided by the board, the board  
30 shall issue to an individual of good moral character a common  
31 interest community manager license provided the individual: (1) has  
32 been actively engaged in providing management services for at least  
33 12-months before applying for such license; and (2) successfully  
34 demonstrates completion of a training program and examination  
35 that is the same or substantially similar, as determined by the board,  
36 to that which is required pursuant to subsection c. of this section.

37

38 10. (New section) a. No licensed common interest community  
39 manager or the common interest community management agency  
40 with which the manager is employed shall control, collect, have  
41 access to, or disburse funds of a community association unless, at  
42 all times during which the common interest community manager  
43 collects, has access to, or disburses such funds, there is in effect  
44 employee dishonesty insurance in conformity with the following:

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

47 (2) The employee dishonesty insurance policy provides  
48 coverage in an amount that is not less than all moneys under the

1 control of the common interest community manager or the  
2 employing common interest community management agency for the  
3 association;

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

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

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

21 b. A common interest community manager or common interest  
22 community management agency that provides common interest  
23 community management services for more than one community  
24 association shall maintain separate, segregated accounts for each  
25 community association <sup>1</sup>or, with the consent of the association,  
26 combine the accounts of one or more associations, but in that event,  
27 separately account for the funds of each association. The funds  
28 shall not, in any event, be commingled with the common interest  
29 community manager's or common interest community management  
30 agency's funds. The maintenance of such accounts shall be  
31 custodial, and such accounts shall be in the name of the respective  
32 community association or common interest community manager or  
33 common interest community management agency as the agent for  
34 the association<sup>1</sup>.

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

40

41 11. (New section) All licenses shall be issued for a two-year  
42 period upon the payment of the licensure fee prescribed by the  
43 board and shall be renewed upon filing of a renewal application, the  
44 payment of a licensure fee and presentation of satisfactory evidence  
45 that the renewal applicant has successfully completed the  
46 continuing education and insurance requirements prescribed by this  
47 act. A license may be renewed without reexamination, if the  
48 application for renewal is made within 30 days next preceding or

1 following the scheduled expiration date. Any applicant for renewal  
2 making application at any time subsequent to the 30th day next  
3 following the scheduled expiration date may be required by the  
4 board to be reexamined, and that person shall not continue to act as  
5 a licensed common interest community manager until a valid  
6 license has been secured.

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

15

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

21 b. The board shall:

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

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

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

34

35 <sup>1</sup>【13. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to  
36 read as follows:

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

1 of Psychological Examiners, the State Board of Examiners of  
2 Master Plumbers, the New Jersey Real Estate Commission, the  
3 State Board of Court Reporting, the State Board of Veterinary  
4 Medical Examiners, the Radiologic Technology Board of  
5 Examiners, the Acupuncture Examining Board, the State Board of  
6 Chiropractic Examiners, the State Board of Respiratory Care, the  
7 State Real Estate Appraiser Board, the State Board of Social Work  
8 Examiners, the State Board of Examiners of Heating, Ventilation,  
9 Air Conditioning and Refrigeration Contractors, the Elevator,  
10 Escalator, and Moving Walkway Mechanics Licensing Board, the  
11 State Board of Physical Therapy Examiners, the Orthotics and  
12 Prosthetics Board of Examiners, the New Jersey Cemetery Board,  
13 the State Board of Polysomnography, the New Jersey Board of  
14 Massage and Bodywork Therapy, the Common Interest Community  
15 Manager Board, the Genetic Counseling Advisory Committee and  
16 any other entity hereafter created under Title 45 to license or  
17 otherwise regulate a profession or occupation.

18 (cf: P.L. 2012, c.71, s.13)】<sup>1</sup>

19

20 <sup>1</sup>【14. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to  
21 read as follows:

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

1 hereafter created under Title 45 to license or otherwise regulate a  
2 profession or occupation.

3 (cf: P.L.2012, c.71, s.15)]<sup>1</sup>

4

5 <sup>1</sup>[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 Elevator,  
27 Escalator, and Moving Walkway Mechanics Licensing Board, the  
28 State Board of Physical Therapy Examiners, the State Board of  
29 Polysomnography, the Professional Counselor Examiners  
30 Committee, the New Jersey Cemetery Board, the Orthotics and  
31 Prosthetics Board of Examiners, the Occupational Therapy  
32 Advisory Council, the Electrologists Advisory Committee, the  
33 Acupuncture Advisory Committee, the Alcohol and Drug Counselor  
34 Committee, the Athletic Training Advisory Committee, the  
35 Certified Psychoanalysts Advisory Committee, the Fire Alarm,  
36 Burglar Alarm, and Locksmith Advisory Committee, the Home  
37 Inspection Advisory Committee, the Interior Design Examination  
38 and Evaluation Committee, the Hearing Aid Dispensers Examining  
39 Committee, the Landscape Architect Examination and Evaluation  
40 Committee, the Perfusionists Advisory Committee, the Physician  
41 Assistant Advisory Committee, the Audiology and Speech-  
42 Language Pathology Advisory Committee, the New Jersey Board of  
43 Massage and Bodywork Therapy, the Common Interest Community  
44 Manager Board, the Genetic Counseling Advisory Committee and  
45 any other entity hereafter created under Title 45 to license or  
46 otherwise regulate a profession or occupation.

47 (cf: P.L.2012, c.71, s.17)]<sup>1</sup>

1       <sup>1</sup>13. a. The board may refuse to admit a person to an examination  
2 or may refuse to issue or may suspend or revoke any license issued  
3 by the board upon proof that the applicant or holder of that license:

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

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

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

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

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

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

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

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

24       b. The commissioner shall afford a common interest  
25 community manager an opportunity for hearing before a license is  
26 revoked. The board shall afford a common interest community  
27 manager an opportunity for hearing after issuing an order to  
28 suspend a license.<sup>1</sup>

29  
30       <sup>1</sup>14. a. If any person violates any provisions of this act, or any  
31 code, rule, regulation, or order adopted or issued pursuant thereto,  
32 the commissioner may institute a civil action in a court of  
33 competent jurisdiction for injunctive or any other appropriate relief  
34 to prohibit and prevent a violation or violations and the court may  
35 proceed in the action in a summary manner.

36       b. If any person violates the provisions of this act or any code,  
37 rule, regulation or order adopted or issued pursuant thereto, the  
38 commissioner may assess a civil administrative penalty of not more  
39 than \$2,500 for the first offense and not more than \$5,000 for the  
40 second and each subsequent offense. If the violation is of a  
41 continuing nature, each day during which it continues shall  
42 constitute an additional, separate, and distinct offense. No civil  
43 administrative penalty shall be levied except upon an administrative  
44 order issued pursuant to section 15 of this act.

45       c. The commissioner is authorized and empowered to  
46 compromise and settle any claim for a penalty in an amount in the  
47 discretion of the commissioner as is appropriate and equitable under  
48 all circumstances.

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

8 e. If the violation is of a continuing nature, each day during  
9 which the violation continues, or each day in which the civil  
10 administrative penalty is not paid in full, constitutes an additional,  
11 separate and distinct offense. Any penalty imposed under this  
12 section may be recovered with costs in a summary proceeding  
13 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
14 c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal  
15 court shall have jurisdiction to enforce the "Penalty Enforcement  
16 Law of 1999" in connection with this act.<sup>1</sup>

17  
18 <sup>1</sup>15. a. Should the commissioner have cause to believe that any  
19 person is in violation of any provision of this act or rules and  
20 regulations promulgated pursuant thereto, the commissioner may  
21 initiate an investigation. If upon investigation the commissioner  
22 determines that there has been a violation of the provisions of this  
23 act or rules and regulations promulgated pursuant thereto, the  
24 commissioner shall be authorized to:

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

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

34 (3) order any person found to have violated any provision of this  
35 act or rules and regulations promulgated pursuant thereto to restore  
36 any person for whom management service work was done to his  
37 position prior to performance of the work;

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

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

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

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

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

1     b. Any person to which an order or assessment of civil  
2 administrative penalty or a notice of revocation of a license is  
3 issued has 20 days from the receipt of the order to deliver to the  
4 commissioner a written request for a hearing. Upon receipt of that  
5 request, the commissioner shall determine whether to conduct the  
6 hearing itself or refer the matter to the Office of Administrative  
7 Law, which shall assign an Administrative Law Judge to conduct a  
8 hearing in the form of a contested case pursuant to the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.). If the matter is referred to the Office of Administrative Law,  
11 the commissioner shall affirm, reject, or modify the decision within  
12 45 days of receipt of the Administrative Law Judge's initial decision  
13 by issuing its own final decision. The commissioner's action shall  
14 be considered the final agency action for the purposes of the  
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
16 seq.), and shall be subject only to judicial review as provided in the  
17 Rules of Court.

18     c. If no hearing is requested, an order becomes a final order  
19 upon the expiration of the 20-day period. This final order shall be  
20 considered the final agency action for the purposes of the  
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
22 seq.), and shall be subject only to judicial review as provided in the  
23 Rules of Court. Payment of an administrative penalty is due when a  
24 final order is issued or when the order becomes a final order.  
25 Pending the determination by the commissioner and upon  
26 application by a person to whom an order or notice of revocation is  
27 issued, the commissioner may stay operation of an order upon such  
28 terms and conditions as it deems proper.<sup>1</sup>

29  
30     16. This act shall take effect immediately, except that section 7  
31 shall take effect 360 days following the appointment and  
32 qualification of the board members, and provided that the  
33 <sup>1</sup>**[director]** commissioner<sup>1</sup> and the board may take such  
34 anticipatory action as may be necessary to effectuate that provision  
35 of the act.