



**COLORADO**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

**2017 Sunset Review:  
Community Association Management  
Practice Act**

*October 13, 2017*



**COLORADO**

**Department of  
Regulatory Agencies**

Executive Director's Office

October 13, 2017

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Since that time, Colorado's sunset process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

Section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), directs the Department of Regulatory Agencies to:

- Conduct an analysis of the performance of each division, board or agency or each function scheduled for termination; and
- Submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. Accordingly, COPRRR has completed the evaluation of the licensing of community association managers. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2018 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Part 10 of Article 61 of Title 12, C.R.S. The report also discusses the effectiveness of the Director of the Division of Real Estate and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Marguerite Salazar  
Executive Director





# COLORADO

## Department of Regulatory Agencies

Colorado Office of Policy, Research &  
Regulatory Reform

## 2017 Sunset Review Community Association Management Practice Act

### SUMMARY

#### ***What is regulated?***

Community Association Managers oversee the daily business and supervise the maintenance of property and facilities in common interest communities. Community Association Managers also collect monthly fees, prepare financial statements and budgets, negotiate with contractors and help to resolve community complaints.

#### ***Why is it regulated?***

The laws that govern Community Association Managers, both individuals (Managers) and entities (Management Companies), protect homeowners in common interest communities from abuses, such as theft or mismanagement of funds, inadequate accounting and recordkeeping practices, and lack of transparency in board meetings and association records. Licensing also ensures that Managers have the basic knowledge necessary to provide community association management services.

#### ***Who is regulated?***

In fiscal year 16-17, the Director of the Division of Real Estate (Director) licensed 1,413 Managers, 70 Apprentices and 471 Management Companies.

#### ***How is it regulated?***

Community Association Managers must be licensed by the Director. In order to be licensed, an applicant must obtain credentials from the Community Association Managers International Certification Board (CAMICB) or the Community Associations Institute (CAI). In lieu of the credentials from CAMICB or CAI, an applicant may complete 24 hours of education approved by the Director and pass an examination to demonstrate competency. Additionally, all applicants must pass an examination of relevant Colorado laws and submit to a state and national fingerprint-based criminal history record check.

#### ***What does it cost?***

In fiscal year 16-17, the total expenditures to oversee the program were approximately \$279,175, and there were 2.66 full-time equivalent employees dedicated to the program.

#### ***What disciplinary activity is there?***

In fiscal year 16-17, the Director issued 12 cease and desist orders to one entity and 11 individuals, issued 8 letters of admonition to individuals, censured two individuals, denied a license to one individual and revoked the license of one individual. The Director also issued seven fines to one entity and six individuals, totaling \$5,750.

## KEY RECOMMENDATIONS

### ***Continue the Community Association Management Practice Act for five years, until 2023.***

A Community Association Manager oversees the daily business of a common interest community (association), which includes collecting monthly fees, preparing financial statements and budgets, and negotiating with contractors. A Community Association Manager is in a position of power that could easily be abused. Therefore, the General Assembly should continue the licensure of Community Association Managers for five years, until 2023.

### ***Authorize the Director to establish renewal fees for Management Companies.***

The licensing of Community Association Managers, like most licensing programs, is cash funded. If Management Companies were paying renewal fees, the cost of regulation would be allocated more fairly.

### ***Amend the supervision requirements for the Apprentice license type.***

Many Management Companies find the Apprentice license type to be too restrictive. Rather than requiring direct supervision of licensed Apprentices, the General Assembly should simply require general supervision and clarify that failure to adequately supervise an Apprentice is grounds for discipline.

## METHODOLOGY

As part of this review, Colorado Office of Policy, Research and Regulatory Reform staff interviewed Division of Real Estate staff, reviewed records, interviewed officials with professional associations, interviewed other stakeholders, hosted a town hall, surveyed licensed Community Association Managers, reviewed Colorado statutes and rules, and reviewed the laws of other states.

## MAJOR CONTACTS MADE DURING THIS REVIEW

American Resort Development Association  
Colorado Association of Home Builders  
Colorado Association of Realtors  
Colorado Civil Rights Division  
Colorado Division of Real Estate  
Colorado Office of the Attorney General  
Colorado HOA Forum  
Colorado NAIOP  
Community Associations Institute  
HOA Owners Advocates

### **What is a Sunset Review?**

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:  
Colorado Department of Regulatory Agencies  
Colorado Office of Policy, Research and Regulatory Reform  
1560 Broadway, Suite 1550, Denver, CO 80202  
[www.dora.colorado.gov/opr](http://www.dora.colorado.gov/opr)



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# Background

## Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

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<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
  - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

## Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

### Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.



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## Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

## Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

## Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

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## Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

## **Sunset Process**

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at: [www.dora.colorado.gov/opr](http://www.dora.colorado.gov/opr).

The functions of the Director of the Division of Real Estate (Director and Division, respectively) as enumerated in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2018, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the program pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed program to regulate Community Association Managers should be continued and to evaluate the performance of the Director and the staff of the Division. During this review, the Division must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

## **Methodology**

As part of this review, COPRRR staff interviewed Division staff, reviewed records, interviewed officials with professional associations, interviewed other stakeholders, hosted a town hall, surveyed licensed individuals (Managers) and licensed entities (Management Companies), reviewed Colorado statutes and rules, and reviewed the laws of other states.

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## Profile of the Profession

Community Association Managers work for common interest communities, such as condominiums, co-ops, retirement communities, timeshares and other housing developments.

Condominiums are governed by a homeowner's association (HOA). Single family homes may also be governed by an HOA.<sup>2</sup>

The primary purpose of an HOA is to maintain community standards in order to assure stable property values. An HOA collects fees to pay for the maintenance of common areas, such as a park, tennis courts, elevators, a swimming pool and a clubhouse. Fees may also pay for services, such as trash collection and snow removal. When an HOA lacks sufficient funds in its budget to pay for repairs, it may impose a special assessment on members in order to cover the additional costs.<sup>3</sup> A special assessment may be necessary because of an unexpected event such as hail damage, or it may be necessary because the HOA did not set aside sufficient funds in reserve.

Homeowners automatically become members of an HOA when they purchase property in a community governed by an HOA. Members of an HOA elect a board of directors (executive board) to oversee and enforce the HOA governing documents.<sup>4</sup> An executive board generally has the authority to enforce HOA rules, levy fines and file lawsuits against homeowners for nonpayment of dues.<sup>5</sup>

In Colorado, approximately 1.9 million residents live in 9,500 communities governed by HOAs.<sup>6</sup>

In addition to residential common interest communities, a common interest community may be reserved entirely for commercial businesses or it may be a mix of residential and commercial units.<sup>7</sup>

An executive board typically hires a Community Association Manager to oversee the daily business and supervise the maintenance of the property and facilities shared by the community. A Community Association Manager also collects monthly fees, prepares

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<sup>2</sup> FindLaw. *What Is a Common-interest Community*. Retrieved on August 3, 2017, from <http://realestate.findlaw.com/owning-a-home/what-is-a-common-interest-community.html>

<sup>3</sup> Investopedia. *Homeowner's Association - HOA*. Retrieved on August 3, 2017, from <http://www.investopedia.com/terms/h/hoa.asp>

<sup>4</sup> Investopedia. *Homeowner's Association - HOA*. Retrieved on August 3, 2017, from <http://www.investopedia.com/terms/h/hoa.asp>

<sup>5</sup> FindLaw. *What Is a Common-interest Community*. Retrieved on August 3, 2017, from <http://realestate.findlaw.com/owning-a-home/what-is-a-common-interest-community.html>

<sup>6</sup> Community Associations Institute. *National and State Statistical Review for 2016*. Retrieved on August 3, 2017, from <https://www.caionline.org/AboutCommunityAssociations/Pages/StatisticalInformation.aspx>

<sup>7</sup> New Jersey Law Blog. *Commercial Condominiums and Common Interest Community Associations*. Retrieved on July 26, 2017, from <http://www.njlawblog.com/2008/07/articles/community-associations/commercial-condominiums-and-common-interest-community-associations/>

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financial statements and budgets, negotiates with contractors and helps to resolve community complaints.<sup>8</sup>

In some cases, HOA's rely on volunteers who are members of the community to handle management duties.<sup>9</sup>

Community Association Managers are similar to property or real estate managers, who manage residential, commercial or industrial properties in order to ensure the property is well maintained and preserves its resale or leasing value. Property managers may also handle the financial aspects of income-producing property on behalf of owners, such as collecting rents, paying bills and finding tenants.<sup>10</sup> Property managers must be licensed as real estate brokers, and they are not the subject of this report.

For someone entering the field, there is no specific career track or degree required to become a Community Association Manager. Some companies expect Community Association Managers to learn on the job and others offer formalized classroom education and practical training to newly hired employees.<sup>11</sup>

Community Association Managers may obtain credentials from one of the following private, professional associations:

- The Community Association Managers International Certification Board (CAMICB), or
- The Community Associations Institute (CAI).

CAMICB offers a Certified Manager of Community Associations credential, and CAI offers the following credentials:

- Association Management Specialist, and
- Professional Community Association Manager.

Community Association Managers, both individuals and entities, are required to be licensed in Colorado, seven other states and the District of Columbia. The qualifications required for licensure vary by state.<sup>12</sup>

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<sup>8</sup> U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

<sup>9</sup> Community Associations Institute. *About Community Associations*. Retrieved on September 5, 2017, from <https://www.caionline.org/AboutCommunityAssociations/Pages/default.aspx>

<sup>10</sup> U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

<sup>11</sup> First Service Residential. *So You Want to Become a Property Manager or Community Association Manager*. Retrieved on August 14, 2017, from <https://www.fsresidential.com/corporate/news-and-events/articles/so-you-want-to-become-a-property-manager-or-commun>

<sup>12</sup> U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

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# Legal Framework

## History of Regulation

In 2012, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) conducted a sunrise review of Community Association Managers and found that although there was clear evidence of harm related to common interest communities (associations), it was often difficult to unravel whether the harm was caused by the individual manager, the management company or the homeowner’s association board of directors (executive board). In the end, COPRRR recommended regulating management companies since doing so would provide a clear line of accountability.

In 2013, the General Assembly enacted House Bill 13-1277, requiring all Community Association Managers, individuals and entities, to obtain a license from the Director of the Division of Real Estate (Director and Division, respectively) as of July 1, 2015.

The following year, the General Assembly passed House Bill 14-1254, which required Community Association Managers to disclose all fees to the executive board that governs an association.

In 2015, the General Assembly amended the law again in order to:

- Clarify the term “community association management,”
- Create a new license type for an Apprentice working under the direct supervision of a licensed manager, and
- Exempt time shares.

## Legal Summary

The Director is vested with the authority to regulate Community Association Managers by the Community Association Management Practice Act (Act), located in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.). The Director may promulgate rules to carry out the duties necessitated by the Act.<sup>13</sup>

Any Community Association Manager who is engaged in community association management for compensation must be licensed by the Director.<sup>14</sup>

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<sup>13</sup> § 12-61-1002(2), C.R.S.

<sup>14</sup> §§ 12-61-1001(5)(a) and 12-61-1002(1), C.R.S.

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Community association management includes any of the following practices:<sup>15</sup>

- Acting with the authority of an association in its business, financial, legal or other transactions;
- Executing the resolutions and decisions of the executive board;
- Enforcing the rights of the association secured by statute, contract, covenant, rule or bylaw;
- Administering or coordinating maintenance of the property or facilities of the association;
- Administering applications for architectural review;
- Arranging, conducting or coordinating meetings of the association's membership or executive board;
- Maintaining the association's records pursuant to its governing documents and applicable provisions of the Colorado Common Interest Ownership Act (CCIOA); and
- Administering an association's funds.

However, community association management does not include any clerical, ministerial, accounting or maintenance functions.<sup>16</sup>

A Community Association Manager may be an individual (Manager) or an entity (Management Company), who engages in community association management for compensation.<sup>17</sup>

A Community Association Manager does not include:<sup>18</sup>

- A person who, under the direct supervision of a Manager, performs any clerical, ministerial, accounting, or maintenance functions;
- Any public official conducting official business;
- A receiver, trustee, administrator, conservator, executor or guardian acting under proper authorization;
- An individual or entity who is engaged in acquiring or in negotiating to acquire any interest in real estate;
- An attorney who is practicing law on behalf of his or her clients; or
- A corporation which, through its regularly salaried employees or officers, is engaging in the ordinary course of its business activities which are of a non-property management nature.

An independent contractor who performs any clerical, ministerial, accounting or maintenance functions is also not considered a Community Association Manager as long as he or she is not otherwise engaged in community association management.<sup>19</sup>

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<sup>15</sup> § 12-61-1001(4)(a), C.R.S.

<sup>16</sup> § 12-61-1001(4)(b), C.R.S.

<sup>17</sup> § 12-61-1001(5)(a), C.R.S.

<sup>18</sup> § 12-61-1001(5)(b), C.R.S.

<sup>19</sup> § 12-61-1001(5)(b)(VI), C.R.S.

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The Director has the authority to issue an order to cease and desist to anyone violating the Act or the Director’s rules. The Director may also seek an injunction, a restraining order or any other appropriate order in court.<sup>20</sup>

The Director may audit business records and accounts of anyone licensed as a Community Association Manager.<sup>21</sup>

### Licensure

To qualify for a license, an applicant must be at least 18 years old and have a high-school diploma or an equivalent.<sup>22</sup> An applicant must also have one of the following credentials:<sup>23</sup>

- A Certified Manager of Community Associations (CMCA) designation from the Community Association Managers International Certification Board;
- The Association Management Specialist (AMS) designation from the Community Associations Institute; or
- The Professional Community Association Manager (PCAM) designation from the Community Associations Institute.

In lieu of the credentials listed above, the Director allows applicants to complete 24 hours of classroom or distance learning instruction and pass courses approved by the Director:<sup>24</sup>

- Eight hours covering CCIOA, Colorado Revised Nonprofit Act and other applicable provisions of Colorado law;
- Seven hours of financial, risk and facilities management;
- Five hours of governance and legal documents of an association; and
- Four hours of ethics, bid requests and contract provisions.

Additionally, an applicant must pass an examination. The first part, or General Portion, must test the applicant’s competency in carrying out the core functions of community association management. The second part, or the Colorado Portion, must test the applicant’s understanding of the basic provisions of legal documents and Colorado law related to community association management.<sup>25</sup>

However, an applicant who has a CMCA, AMS or PCAM credential and has maintained the credential in good standing is not required to pass the General Portion of the examination.<sup>26</sup>

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<sup>20</sup> §§ 12-61-1002(3)(a) and (b), C.R.S.

<sup>21</sup> § 12-61-1002(3)(c), C.R.S.

<sup>22</sup> § 12-61-1003(4), C.R.S.

<sup>23</sup> § 12-61-1003(5)(a)(I), C.R.S.

<sup>24</sup> 4 CCR 725-7 § A-3, Community Association Management Rules

<sup>25</sup> § 12-61-1003(5)(a)(III), C.R.S.

<sup>26</sup> § 12-61-1003(5)(a)(IV), C.R.S.

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The Director may also require additional education as a condition of licensure.<sup>27</sup>

In order to apply for a license, an individual must undergo a state and national fingerprint-based criminal history record check.<sup>28</sup>

An applicant must be truthful, honest and of good moral character. This includes any partner, manager, director, officer, member or stockholder of a Management Company if such person has a substantial interest, either directly or indirectly, in the applicant prior to the issuance of a license.<sup>29</sup>

If an applicant's license has been revoked or suspended in any other jurisdiction that regulates Community Association Managers, he or she may not be licensed. However, the Director may make an exception if at least two years have lapsed and the applicant proves that he or she is otherwise fit to be licensed.<sup>30</sup>

The Director must consider the following if an applicant has been convicted of a crime:<sup>31</sup>

- The nature of the conviction;
- Whether there is a direct relationship between the conviction and the duties and responsibilities of a Community Association Manager and the impact that the conviction may have on the fitness or ability to perform these duties and responsibilities;
- Any information provided by the applicant regarding his or her rehabilitation and good conduct; and
- The amount of time that has passed since the conviction.

Regardless, an applicant is disqualified for a license if he or she has been convicted of any of the following over the past 10 years:<sup>32</sup>

- Unlawful sexual behavior;
- First or second degree burglary; and
- Any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion or misappropriation of property.

Any Colorado resident licensed as a Community Association Manager must maintain a place of business in Colorado.<sup>33</sup> If a Community Association Manager maintains more than one place of business in the state, he or she must supervise all licensed activity that occurs at those businesses.<sup>34</sup>

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<sup>27</sup> § 12-61-1003(5)(a)(II), C.R.S.

<sup>28</sup> § 12-61-1003(1)(b)(I), C.R.S.

<sup>29</sup> § 12-61-1003(3)(a), C.R.S.

<sup>30</sup> § 12-61-1003(3)(b), C.R.S.

<sup>31</sup> § 12-61-1003(3)(c), C.R.S.

<sup>32</sup> § 12-61-1003(3)(d), C.R.S.

<sup>33</sup> § 12-61-1003(2), C.R.S.

<sup>34</sup> § 12-61-1003(2), C.R.S.



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The Director will issue a license to a person who has been licensed in another jurisdiction for at least two years as long as he or she:<sup>35</sup>

- Provides evidence of having qualifications that are substantially equivalent to those required by Colorado,
- Submits certification of licensing history from each jurisdiction in which he or she has been licensed, and
- Has fingerprint-based criminal history results that are satisfactory.

Within 30 days of receiving the license, an applicant who was previously licensed in another jurisdiction must complete the Colorado Portion of the examination.<sup>36</sup>

Licenses must be renewed annually.<sup>37</sup> However, the Director is authorized to establish a renewal period of up to three years.<sup>38</sup>

To satisfy the continuing education requirements in order to renew a license, the Director requires licensed individuals to successfully complete one of the following prior to renewal:<sup>39</sup>

- Eight hours of continuing education in courses approved by the Director, or
- The Colorado Portion of the examination.

The Director is authorized to establish licensing fees, including renewal fees for Managers. However, the Director is not authorized to establish renewal fees for Management Companies.<sup>40</sup>

An Apprentice is someone who has not completed the education and examination requirements for a license, and they work under the control and direct supervision of a licensed Manager for the purposes of learning to be a Manager.<sup>41</sup>

An Apprentice must be licensed by the Director,<sup>42</sup> but an Apprentice license may not be renewed.<sup>43</sup>

If the applicant is an entity, it must designate a qualified Manager (Designated Manager) to be responsible for the supervision and management of the entity, who must be licensed as a Designated Manager by the Director. A Designated Manager must qualify for a license as Manager.<sup>44</sup>

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<sup>35</sup> § 12-61-1003(5)(d), C.R.S.

<sup>36</sup> 4 CCR 725-7 § A-8, Community Association Manager Rules

<sup>37</sup> 4 CCR 725-7 § D-2, Community Association Manager Rules

<sup>38</sup> § 12-61-1009(3), C.R.S.

<sup>39</sup> 4 CCR 725-7 § D-9-2, Community Association Manager Rules

<sup>40</sup> § 12-61-1009(1), C.R.S.

<sup>41</sup> § 12-61-1001(1), C.R.S.

<sup>42</sup> § 12-61-1001(1), C.R.S.

<sup>43</sup> § 12-61-1009(4), C.R.S.

<sup>44</sup> § 12-61-1003(6)(b), C.R.S.

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There are no additional requirements for an individual to be licensed as a Designated Manager other than the qualifications required for a Manager.

In case a Designated Manager is refused a license or ceases to be the Designated Manager for the entity, the Director may issue a temporary license to another person designated by the entity. The temporary license may not exceed 90 days.<sup>45</sup>

The Director must maintain and publish on the Division's website a record of all Community Association Managers, including the names, addresses and any other nonproprietary information that the Director considers useful to the public.<sup>46</sup>

### Insurance

Every person licensed as a Community Association Manager must maintain sufficient insurance, determined by rule, necessary to cover all community association management activities.<sup>47</sup>

By rule, the Director requires every company and sole proprietorship to carry errors and omissions insurance that covers at least \$1 million per claim and \$1 million annual aggregate. A deductible may not exceed \$5,000 unless the company or sole proprietorship deposits the amount in a bank account or certificate of deposit assigned to the Division for the use of the people of the State of Colorado.<sup>48</sup>

In addition to errors and omissions insurance, every company and sole proprietorship must carry a crime fidelity insurance policy, which covers any dishonest acts of employees, covering at least two months of assessments plus reserves. Deductibles may be no greater than one percent of the value of the policy.<sup>49</sup>

### Accounting

Each licensed individual and entity must have written internal accounting control policies that establish adequate checks and balances over financial activities.<sup>50</sup> Accounting records must be compliant with Generally Accepted Accounting Principles established by the American Institute of Certified Public Accountants.<sup>51</sup>

### Management Fees

Every Community Association Manager must disclose to the executive board, annually and during contract negotiations, all fees and any other amounts that the Community Association Manager will charge to the association, unit owners or buyers.<sup>52</sup>

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<sup>45</sup> § 12-61-1003(6)(c), C.R.S.

<sup>46</sup> § 12-61-1007, C.R.S.

<sup>47</sup> § 12-61-1004, C.R.S.

<sup>48</sup> 4 CCR 725-7 § D-2(c) and (e), Community Association Manager Rules

<sup>49</sup> 4 CCR 725-7 § D-10-2, Community Association Manager Rules

<sup>50</sup> 4 CCR 725-7 § E-1, Community Association Manager Rules

<sup>51</sup> 4 CCR 725-7 § E-3, Community Association Manager Rules

<sup>52</sup> § 12-61-1004.5(1), C.R.S.

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A Community Association Manager may not enforce any fee or other amount, including a transfer fee, to an association, unit seller or buyer without:<sup>53</sup>

- Disclosing it clearly in the Community Association Manager’s contract, or
- Documenting it on a clearly identifiable line item on a settlement statement.

### Disciplinary Authority

The Director may investigate the activities of any Community Association Manager based on a motion by the Director or a written complaint from any person.<sup>54</sup> The Director also has the authority to subpoena witnesses and the production of books, papers, records or other evidence in an investigation or disciplinary hearing.<sup>55</sup>

Anyone who files a complaint or participates in an investigation or hearing in good faith is immune from liability.<sup>56</sup>

If a Community Association Manager commits any acts deemed grounds for discipline according to the Act, the Director may take the following disciplinary actions:<sup>57</sup>

- Issue a fine up to \$2,500 for each separate offense,
- Censure the license,
- Place a license on probation,
- Suspend a license, and
- Revoke a license.

Fines are credited to the Division’s cash fund.<sup>58</sup>

The Director may also revoke or suspend the license of a Designated Manager if the entity that the Designated Manager is responsible for commits any act that is grounds for discipline under the Act.<sup>59</sup>

The following acts are grounds for discipline:<sup>60</sup>

- Knowingly making any misrepresentation or knowingly making use of any false or misleading advertising;
- Violating, directly or indirectly, any applicable provision of Colorado or federal fair housing laws;
- Knowingly violating or knowingly directing others to violate CCIOA;
- Failing to account for or to remit, within a reasonable time, any funds that belong to others and failing to keep records of funds;

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<sup>53</sup> § 12-61-1004.5(2), C.R.S.

<sup>54</sup> § 12-61-1010(1), C.R.S.

<sup>55</sup> § 12-61-1011(4), C.R.S.

<sup>56</sup> § 12-61-1011(8), C.R.S.

<sup>57</sup> § 12-61-1010(1), C.R.S.

<sup>58</sup> § 12-61-1010(6), C.R.S.

<sup>59</sup> § 12-61-1010(2), C.R.S.

<sup>60</sup> § 12-61-1010(1), C.R.S.

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- Converting funds of others, diverting funds of others without proper authorization, commingling funds of others with the Manager's own funds, or failing to keep such funds of others in a segregated account with some bank or recognized depository in this state;
  - Disregarding or violating, or aiding or abetting any violation of, the Act or a Director rule or order;
  - Performing any act that leads to a conviction of, entry of a plea of guilty to, or entry of a plea of *nolo contendere* to any crime specified in the Act, such as assault, unlawful sexual behavior, theft, burglary, trespassing and fraud;
  - Having demonstrated unworthiness or incompetency to act as a Community Association Manager by conducting business in such a manner as to endanger the interest of the public; and
  - Failing to exercise reasonable supervision over the activities of employees.

Additional grounds for discipline include:<sup>61</sup>

- Failing to make a full and true disclosure of fees, charges and remuneration as required by the Act;
- Claiming, arranging for or taking any secret or undisclosed amount of compensation, commission or profit, or failing to reveal to the principal or employer the full amount of the licensee's compensation, commission or profit in connection with community association management;
- Having a license or a subdivision developer's registration suspended or revoked in any jurisdiction, or having any disciplinary action taken against the Community Association Manager or subdivision developer in any other jurisdiction if the licensee's or subdivision developer's action would constitute a violation of the Act;
- Acting outside the scope of authority granted by the issuance of a license; and
- Any other conduct that constitutes dishonest dealing.

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<sup>61</sup> § 12-61-1010(1), C.R.S.

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The Director may also take action against a licensed or unlicensed Manager if, within the last five years, a Manager has a license, registration or certification revoked or suspended for fraud, deceit, material misrepresentation, theft or breach of a fiduciary duty, and such discipline denied the person the ability to practice as a:<sup>62</sup>

- Mortgage broker or mortgage loan originator,
- Real estate broker or salesperson,
- Real estate appraiser,
- Insurance producer,
- Attorney,
- Securities broker-dealer,
- Securities sales representative,
- Investment advisor, or
- Investment advisor representative.

All disciplinary actions, including denial of a license, are subject to judicial review by the Colorado Court of Appeals.<sup>63</sup>

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<sup>62</sup> § 12-61-1010(1)(p), C.R.S.

<sup>63</sup> § 12-61-1011(5), C.R.S.

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## Program Description and Administration

The Director of the Division of Real Estate (Director and Division, respectively), located within the Colorado Department of Regulatory Agencies, is vested with the authority to regulate Community Association Managers, which includes both individuals (Managers) and entities (Management Companies). The Director is responsible for licensing, investigating complaints, performing audits and enforcing the Community Association Management Practice Act (Act), located in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.). Rulemaking authority rests with the Director.

The period under review represents the entire life of the program. Any individual or entity managing a common interest community (association) for compensation was required to be licensed as of July 1, 2015.

During the initial phase of the program, the Director convened an advisory committee to assist with the development of the education and examination requirements. While the Director occasionally meets with stakeholders when issues arise, no ongoing advisory committee has been established.

The program is cash funded by licensing fees. While Managers are required to pay fees to renew their licenses, the Director is not authorized by statute to establish renewal fees for Management Companies.

Table 1 illustrates the program expenditures and full-time equivalent (FTE) employees dedicated to the program.

**Table 1**  
**Program Expenditures**

Fiscal Year	Total Program Expenditures	FTE
14-15	\$58,732	0.50
15-16	\$172,491	2.25
16-17	\$279,175	2.66

The total program expenditures reported in Table 1 include personal services, cash expenditures and legal services. The FTE reported in Table 1 do not include employees in other sections of the Division, who provide licensing, administrative, technical and enforcement support to the program, and the cost of those employees is also not reflected in the program expenditures.

In fiscal year 14-15, staffing levels and program expenditures were minimal since the program was not fully operational until fiscal year 15-16.

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In fiscal year 16-17, there were 2.66 FTE dedicated to the program:

- **Compliance Investigator, Team Lead (1.0 FTE)**, who administers the Community Association Manager program and manages investigations;
- **Compliance Investigator (0.66 FTE)**, who plans and conducts investigations to determine whether allegations constitute violations of the Act and reports on the results; and
- **Financial/Credit Examiner II (1.0 FTE)**, who plans and conducts audits and investigations to determine compliance with the Act and reports on the results.

Table 2 provides the licensing fees for Managers and Management Companies in fiscal year 16-17.

**Table 2  
Licensing Fees**

<b>Fee Type</b>	<b>Fiscal Year 16-17</b>
Initial License Application	\$205
Apprentice License Application	\$205
Renewal Application	\$174
Reinstatement Application	\$257
Management Company Application	\$305
Change of Management Company Application	\$10
Manager Transfer Application	\$10

Managers must renew their licenses annually on July 1; however, Management Companies are not required to renew their licenses.

When a Manager is licensed, they must include the name of the Management Company they are associated with, if any, in the application for a license. If a Manager transfers to a new Management Company, they are required to notify the Director of this change through an online form, the Manager Transfer Application, and pay a \$10 fee.

## **Licensing**

The Act requires any Manager or Management Company to be licensed by the Director in order to manage an association for compensation.

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## Managers

In order to be licensed as a Community Association Manager, an applicant must obtain credentials through one of the following private, professional associations:

- A Certified Manager of Community Associations (CMCA) certification from the Community Association Managers International Certification Board (CAMICB),
- The Association Management Specialist (AMS) designation from the Community Associations Institute (CAI), or
- The Professional Community Association Manager (PCAM) designation from CAI.

The CMCA certification demonstrates that a Manager has the basic knowledge necessary to manage an association. In order to obtain the CMCA certification, a candidate must fulfill one of the following prerequisites:<sup>64</sup>

- Successfully complete a prerequisite course approved by the CAMICB;
- Have five years of experience in community association management; or
- Be licensed in Arizona, California, Florida or Nevada.

CAMICB may approve any prerequisite course to fulfill the educational requirement. The prerequisite courses must cover the following topics:<sup>65</sup>

- Budgets, reserves, investments and assessments;
- Contracting;
- Financial controls;
- Governance and legal issues;
- Human resource management;
- Meetings;
- Property maintenance;
- Risk management and insurance; and
- Ethics.

One course approved by CAMICB is the M-100: The Essentials in Community Association Management.<sup>66</sup> The M-100 is a two and a half day course, which costs \$459 for CAI members and \$559 for nonmembers.<sup>67</sup>

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<sup>64</sup> Community Association Managers International Certifications Board. *CMCA Program Overview*. Retrieved on August 16, 2017, from <https://www.camicb.org/get-certified>

<sup>65</sup> Community Association Managers International Certifications Board. *Prerequisite Course Providers Overview*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/Prerequisite-Course-Provider-Overview.aspx>

<sup>66</sup> Community Association Managers International Certifications Board. *Prerequisite Course Providers Overview*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/Prerequisite-Course-Provider-Overview.aspx>

<sup>67</sup> Community Associations Institute. *M-100: The Essentials of Community Association Management*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/Education-for-Managers/M100/Pages/default.aspx>



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The next step is to submit an application for certification to CAMICB. Once CAMICB approves an application, a candidate has one year to pass the CMCA examination.<sup>68</sup>

The CMCA examination is a three-hour, computer-based examination, comprised of 120 multiple-choice questions covering the topics required to be covered in the prerequisite course.<sup>69</sup>

The CMCA examination is administered by Pearson Vue at 12 locations throughout the state:<sup>70</sup>

- Colorado Springs,
- Edwards,
- Glenwood Springs,
- Grand Junction,
- Greeley,
- Greenwood Village,
- Lakewood,
- Littleton,
- Longmont,
- Pueblo,
- Steamboat Springs, and
- Westminster.

The CMCA application costs \$300, which pays for the application, the examination and one year of certification. The CMCA examination may be retaken as many times as necessary for \$250 each attempt.<sup>71</sup>

The AMS designation demonstrates a higher level of knowledge and expertise than the CMCA certification. In order to obtain the AMS designation, a candidate must:<sup>72</sup>

- Have two years of experience in financial, administrative and facilities management with at least one association;
- Successfully complete at least two M-200 level courses through CAI; and
- Successfully pass the CMCA examination.

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<sup>68</sup> Community Association Managers International Certifications Board. *CMCA Examination*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/CMCA-Examination.aspx>

<sup>69</sup> Community Association Managers International Certifications Board. *CMCA Examination*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/CMCA-Examination.aspx>

<sup>70</sup> Pearson Vue. *Test Center Search*. Retrieved on August 16, 2017, from <https://www1.pearsonvue.com/testtaker/registration/SelectTestCenterProximity/HUMRRO/2870575>

<sup>71</sup> Community Association Managers International Certifications Board. *CMCA Examination*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/CMCA-Examination.aspx>

<sup>72</sup> Community Associations Institute. *Association Management Specialist (AMS)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/AMS.aspx>

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Once the experience and education have been completed, a candidate must submit an AMS application, which costs \$150 for CAI members and \$375 for nonmembers.<sup>73</sup>

The PCAM credential demonstrates advanced skills and knowledge. In order to obtain a PCAM credential, a candidate must have the following prerequisites:<sup>74</sup>

- Five years of direct experience in community association management,
- Successfully complete six courses offered by CAI, and
- Successfully pass the CMCA examination offered by CAMICB.

Then a candidate must submit an application for the PCAM designation to CAI. In order to earn the designation, a candidate must earn a total of 125 points on the application,<sup>75</sup> which is scored according to the following criteria:<sup>76</sup>

- Formal education (a maximum of 30 points),
- Professional designations or licenses (a maximum of 20 points), and
- CAI and industry-related experience and service (a minimum of 55 points).

The PCAM application costs \$195 for CAI members and \$430 for nonmembers.<sup>77</sup>

In lieu of the CMCA, AMS or PCAM designation, an applicant may complete 24 hours of education approved by the Director and pass the first part of the state examination, known as the General Portion, in order to demonstrate competency in carrying out the core functions of community association management.

Additionally, all applicants must pass the second part of the state examination, known as the Colorado Portion, to demonstrate an understanding of relevant Colorado laws and submit to a state and national fingerprint-based criminal history record check.

Applications and fees must be submitted through an online licensing system; the Division does not accept paper applications.

The Division processes applications in approximately 10 business days. However, it may take significantly longer to issue an initial license since the Division must wait for the results of the criminal history background check from the Colorado Bureau of Investigation.

Applicants have the opportunity to check the status of their application through the online licensing system.

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<sup>73</sup> Community Associations Institute. *Association Management Specialist (AMS)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/AMS.aspx>

<sup>74</sup> Community Associations Institute. *Professional Community Association Manager (PCAM)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/PCAM.aspx>

<sup>75</sup> Community Associations Institute. *Professional Community Association Manager (PCAM)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/PCAM.aspx>

<sup>76</sup> Community Association Institute. *Professional Community Association Manager (PCAM) Designation Application*.

<sup>77</sup> Community Association Institute. *Professional Community Association Manager (PCAM) Designation Application*.

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If an applicant is concerned that previous conduct, criminal convictions or actions against a professional license may have a negative impact on an application, he or she may request a preliminary advisory opinion from the Director prior to submitting an application.

Table 3 demonstrates the total number of Managers licensed by the Director for the two fiscal years since the program became fully operational.

**Table 3  
Manager Licenses**

<b>Fiscal Year</b>	<b>Initial</b>	<b>Endorsement</b>	<b>Renewal</b>	<b>Total</b>
15-16	1,270	15	1,166	1,285
16-17	310	4	1,307	1,413

The license numbers in Table 3 do not add up to the Total number of licenses because some licenses may have been renewed prior to the end of the fiscal year and others after the new fiscal year began.

The program became fully operational on July 1, 2015 when Community Association Managers were required to be licensed. While the increase in fiscal year 16-17 may represent some growth in the industry, much of it is likely due to efforts by the Division staff to bring Managers into compliance with the licensing requirement.

All licenses are renewed annually through the online licensing system. In order to renew, Managers must provide evidence of completing eight hours of continuing education or by retaking the Colorado Portion of the examination.

An applicant who has not completed the education and examination requirements for a license may be licensed as an Apprentice if he or she successfully passes a state and national fingerprint-based criminal history record check. An Apprentice must work under the control and direct supervision of a licensed Manager. An Apprentice license expires one year after it is issued, and it may not be renewed.

Table 4 provides the total number of Apprentice licenses issued by the Director over the two-year period since the program became fully operational.

**Table 4  
Apprentice Licenses**

<b>Fiscal Year</b>	<b>Number</b>
15-16	28
16-17	70

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The authority to issue an Apprentice license was granted by the General Assembly in 2015.

### Management Companies

Management Companies may submit applications and fees online. When a Management Company submits an application, it must select a Designated Manager to be responsible for the licensed actions of the Management Company, and it must provide evidence that the Management Company is authorized to do business in Colorado and is in good standing with the Secretary of State.

Actively licensed Management Companies are also required to maintain errors and omissions insurance and crime fidelity insurance, and they must attest that each insurance policy complies with Director’s rules and provide the Director with the insurance company’s name, policy number and date of expiration.

Table 5 shows the total number of Management Companies licensed by the Director for the two fiscal years since the program became fully operational.

**Table 5  
Management Companies Licenses**

Fiscal Year	Total
15-16	448
16-17	471

Management Companies were required to be licensed as of July 1, 2015. While the increase in Management Companies in fiscal year 16-17 may be due in part to growth in the industry, much of it is likely due to the efforts by the Director to bring companies into compliance with the licensing requirement.

A Designated Manager is responsible for the supervision and management of a Management Company. A Designated Manager must qualify to be licensed as a Manager and be licensed by the Director as a Designated Manager. If a Designated Manager ceases to work for the Management Company or is refused a license by the Director, the Director may issue a 90-day temporary license to another individual selected by the Management Company.

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Table 6 provides the total number of Designated Managers licensed for the two fiscal years since the program became fully operational.

**Table 6**  
**Designated Managers**

Fiscal Year	Initial License	Endorsement	Renewal	Total
15-16	434	3	399	437
16-17	58	1	451	468

The license numbers in Table 6 do not add up to the Total number of licenses because some licenses may have been renewed prior to the end of the fiscal year and others after the new fiscal year began. Additionally, many of the initial licenses issued in fiscal year 15-16 were likely renewed prior to the end of that same fiscal year.

While the increase in Designated Managers in fiscal year 16-17 may be due to growth in the industry, much of it is likely due to efforts by the Division to bring Management Companies into compliance.

## Examination

Once a candidate has completed the educational requirements, he or she is eligible to take the Community Association Manager Examination (state examination).

The state examination consists of two parts:

- The General Portion tests the individual's competency to manage an association, and
- The Colorado Portion tests the individual's knowledge of laws relevant to managing an association in Colorado.

The state examination is developed by the Director and administered by PSI at the following examination centers throughout the state:<sup>78</sup>

- Centennial,
- Colorado Springs,
- Durango,
- Fort Collins,
- Grand Junction,
- Pueblo, and
- Wheat Ridge.

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<sup>78</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), pp. 6-7. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

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The state examination costs \$44.95 for the first attempt. If an applicant fails to pass the examination, he or she may take one or both portions of the state examination again. Any following attempts cost \$42.50, whether one or both portions are taken.<sup>79</sup>

Each portion of the state examination takes 90 minutes.<sup>80</sup> The state examination is computer-based, so candidates are provided their scores immediately after completing the examination.<sup>81</sup>

The General Portion consists of 55 questions. To earn a passing score, a candidate must answer 43 questions correctly.<sup>82</sup>

The General Portion tests:<sup>83</sup>

- Legal documents required of an association (8 questions),
- Governance of an association (8 questions),
- Bid requests (4 questions),
- Contract provisions (5 questions),
- Principles of financial management (10 questions),
- Principles of risk management (5 questions),
- Facilities management (10 questions), and
- Ethics (5 questions).

The Colorado Portion consists of 45 questions. To earn a passing score, a candidate must answer 35 questions correctly.<sup>84</sup>

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<sup>79</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 9. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>80</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>81</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 8. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>82</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>83</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>84</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

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The Colorado Portion tests:<sup>85</sup>

- General common interest community regulations in Colorado (4 questions);
- HOA disclosure, governance and education (4 questions);
- Association rules and restrictions (4 questions);
- Enforcement and collections (3 questions);
- Colorado rules for financial management (3 questions);
- Colorado rules for association meetings and elections (6 questions);
- Powers of the association and executive board (4 questions);
- Registration and recordkeeping requirements (4 questions);
- Articles of incorporation and bylaws (3 questions);
- Directors and officers (3 questions);
- Colorado Fair Housing and Civil Rights Act (3 questions); and
- Additional Colorado statutes (4 questions).

Neither portion of the examination is open book.<sup>86</sup>

PSI works with the Director to ensure that the state examination accurately measures knowledge of the required material.<sup>87</sup> The state examination is intended to ensure Managers have the minimum competency necessary to manage common interest communities.

Anyone who holds a PCAM, AMS or CMCA certification is not required to complete the General Portion of the state examination.

Table 7 illustrates the number of examinations taken and the pass rates for each portion of the state examination.

**Table 7  
State Examination**

<b>Fiscal Year</b>	<b>General Portion Number of Examinations</b>	<b>Pass Rate</b>	<b>Colorado Portion Number of Examinations</b>	<b>Pass Rate</b>
14-15	905	78%	1,202	77%
15-16	376	64%	472	64%
16-17	267	61%	329	66%

Managers were required to be licensed as of July 1, 2015, which is the reason so many examinations were taken in fiscal year 14-15. In order to be licensed, they must first complete 24 hours of education and then pass the state examination. Not all applicants

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<sup>85</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 4. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>86</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

<sup>87</sup> *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 2. Retrieved from [https://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf](https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf)

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are required to complete the General Portion of the state examination, which is intended to demonstrate competency. Individuals who have credentials outlined in statute are simply required to complete the Colorado Portion of the state examination, which tests knowledge of Colorado law relevant to managing an association.

The pass rates were higher in fiscal year 14-15, the first year the state examination was offered, because many of the test takers were experienced Community Association Managers. In the following years, many of the test takers were new to the occupation and, therefore, had less experience and knowledge of the industry to rely upon.

## **Audits**

Although the Division has authority to conduct audits, it has not conducted any at this time.

## **Complaints & Disciplinary Actions**

The Director has the authority to open a complaint on his or her own motion, and anyone may file a complaint against a Community Association Manager. Upon receiving a complaint, staff reviews it to determine whether it falls within the Director's jurisdiction. If it does, the Division forwards a copy of the complaint to the Community Association Manager and requests a response.



Table 8 demonstrates the complaints against Managers in fiscal years 15-16 and 16-17.

**Table 8  
Complaints Against Managers**

Nature of Complaints	FY 15-16	FY 16-17
Unlicensed Activity	90	38
Acting Outside Scope of Authority	0	0
Criminal Conviction	0	9
Having License Denied/Revoked in the Last Five Years for Fraud, Deceit, Material Misrepresentation, Theft, or Breach of a Fiduciary Duty	0	0
Dishonest Dealings	0	0
Misrepresentation/False, Misleading Advertising	0	0
Procuring a License by Fraud, Misrepresentation or Deceit	0	0
Violating Fair Housing Laws	0	0
Violating the Colorado Common Interest Ownership Act (CCIOA)	5	19
Failing to Account for or Timely Remit Association Funds	0	0
Misappropriating Association Funds	10	18
Demonstrating Unworthiness or Incompetency	10	37
Failing to Supervise Employees	0	0
Failing to Disclose Fees, Charges, Remuneration	0	0
Unfilled Request for Documents or Charging a Fee to Fulfill Document Request*	31	8
<b>Total</b>	<b>146</b>	<b>129</b>

\*The Division often receives complaints regarding Managers failing to fulfill requests for documents, in compliance with CCIOA. A Manager may charge a reasonable fee to fulfill such requests, but they are required to notify the executive board of the fee in advance when they report all the fees that they will charge the association.

In addition to the numbers reported above, there were 20 complaints for violating CCIOA and 12 complaints for misappropriation of funds, in which the Division was unable to report whether the complaint was against an individual or an entity.

In fiscal year 15-16, a majority of the complaints against Managers were related to unlicensed activity. While the number of complaints related to unlicensed activity decreased considerably in fiscal year 16-17, the total number of complaints against Managers only decreased by about 10 percent.

The number of complaints regarding unfilled requests for documents or charging a fee to fulfill document requests decreased considerably in fiscal year 16-17. However, the number of complaints alleging unworthiness or incompetency and complaints alleging violations of CCIOA increased considerably in fiscal year 16-17. There were also a significant number of complaints alleging misappropriation of funds and criminal convictions in fiscal year 16-17 compared to the previous year.

Table 9 demonstrates the complaints against Management Companies in fiscal years 15-16 and 16-17.

**Table 9  
Complaints Against Management Companies**

Nature of Complaints	FY 15-16	FY 16-17
Unlicensed Activity	14	10
Acting Outside Scope of Authority	0	0
Criminal Conviction	0	0
Having License Denied/Revoked in the Last Five Years for Fraud, Deceit, Material Misrepresentation, Theft, or Breach of a Fiduciary Duty	0	0
Dishonest Dealings	0	0
Misrepresentation/False, Misleading Advertising	0	0
Procuring a License by Fraud, Misrepresentation or Deceit	0	0
Violating Fair Housing Laws	0	0
Violating CCIOA	32	18
Failing to Account for or Timely Remit Association Funds	0	0
Misappropriating Association Funds	16	24
Demonstrating Unworthiness or Incompetency	73	73
Failing to Supervise Employees	0	0
Failing to Disclose Fees, Charges, Remuneration	0	0
Unfilled Request for Documents or Charging a Fee to Fulfill Document Request	7	7
<b>Total</b>	<b>142</b>	<b>132</b>

Unlike complaints against Managers, a majority of complaints against Management Companies were related to unworthiness or incompetency. Interestingly, the number of complaints in this category did not decrease in fiscal year 16-17.

In fiscal year 15-16, the second highest number of complaints against Management Companies related to violations of CCIOA. In fiscal year 16-17, complaints in this category decreased significantly while complaints against Management Companies alleging misappropriation of funds increased.

The Director has the authority to suspend or revoke a license, censure a license and place a license on probation. The Director also has the authority to issue a fine of up to \$2,500 for each offense.

Table 10 details the disciplinary actions taken against Managers and Management Companies over two fiscal years.

**Table 10  
Total Disciplinary Actions**

Type of Action	FY 15-16 Entity	FY 15-16 Individual	FY 16-17 Entity	FY 16-17 Individual
License Revocation/Surrender/Voluntary Relinquishment	1	2	0	1
License Suspension	0	0	0	0
Probation	0	0	0	0
Censure	0	0	0	2
Letter of Admonition	0	0	0	8
License Denied	0	0	0	1
Fine	0	0	1	6
Cease and Desist Order	0	4	1	11
Total Dismissals	63	52	84	52
<b>Total Disciplinary Actions</b>	<b>1</b>	<b>6</b>	<b>2</b>	<b>29</b>

In fiscal year 15-16, the Director revoked two Manager’s licenses based on theft of funds from an association, one for a criminal conviction and another for theft. The Director also revoked a Management Company’s license related to the case of theft.

In fiscal year 16-17, the Director issued one cease and desist order against a company and 11 cease and desist orders against individuals and revoked one Manager’s license.

All of the cease and desist orders issued by the Division were related to unlicensed activity.

The Division did not impose any fines in fiscal year 15-16, but in fiscal year 16-17, it imposed seven fines for a total of \$5,750.

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## Collateral Consequences – Criminal Convictions

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or registrants based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

The Director has the authority to deny a license if an applicant has been convicted of a crime. However, the Director must consider:<sup>88</sup>

- The nature of the conviction;
- Whether there is a direct relationship between the conviction and the duties and responsibilities of a Manager and the impact the conviction may have on the fitness or ability to perform these duties and responsibilities;
- Any information provided by the applicant regarding his or her rehabilitation and good conduct; and
- The amount of time that has passed since the conviction.

Nevertheless, the Director must deny a license to an applicant who, over the past 10 years, has been convicted of:<sup>89</sup>

- Unlawful sexual behavior;
- First or second degree burglary; and
- Any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion or misappropriation of property.

In section 12-61-1010, C.R.S., the Director has the authority to suspend or revoke a license based on criminal convictions specified in statute, including crimes against a person, crimes against property and other crimes.

During the period under review, the Director revoked one license based on a conviction of theft of funds from an association.

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<sup>88</sup> § 12-61-1003(3)(c), C.R.S.

<sup>89</sup> § 12-61-1003(3)(d), C.R.S.

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## Analysis and Recommendations

### **Recommendation 1 – Continue the Community Association Management Practice Act for five years, until 2023.**

The laws that govern the regulation of Community Association Managers are located in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.). The Director of the Division of Real Estate (Director and Division, respectively) in the Department of Regulatory Agencies is vested with the authority to regulate Community Association Managers, including both individuals (Managers) and entities (Management Companies).

A Community Association Manager oversees the daily business of a common interest community (association) and supervises the maintenance of the property and facilities shared by the community, which may include the grounds, a clubhouse, a pool and other amenities. A Community Association Manager also collects monthly fees, prepares financial statements and budgets, negotiates with contractors and helps to resolve community complaints.<sup>90</sup>

Sunset reviews are guided by statutory criteria found in section 24-34-104, C.R.S., and the first criterion questions whether regulation is necessary to protect the health, safety and welfare of the public.

An association is a non-profit corporation that is represented by an executive board made up of owners who volunteer to govern the community. The knowledge and background of board members varies widely from association to association. In cases in which board members do not have experience managing budgets, making general business decisions or reviewing reserve studies, they must rely on the Community Association Manager to help them to make important decisions affecting the entire community. In these cases, a Community Association Manager is in a position of power that could easily be abused.

During the 2012 Sunrise Review of Common Interest Community Managers, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) identified clear evidence of harm that warranted regulation. The types of harm included:<sup>91</sup>

- Theft of funds,
- Mismanagement of funds,
- Undisclosed conflicts of interest,
- Inadequate accounting and recordkeeping practices, and
- Lack of transparency in terms of board meetings and access to association records.

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<sup>90</sup> U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

<sup>91</sup> Colorado Office of Policy, Research and Regulatory Reform. *2012 Sunrise Review: Common Interest Community Association Managers*. March 2, 2012.

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The licensing program has only been in place for a few years, so there is little data to rely on in determining how much harm related to management activities exists. In fact, the majority of enforcement actions have been related to unlicensed activity, which is not, in and of itself, a compelling reason to regulate an occupation or industry.

However, two Managers and one Management Company have already been disciplined for misconduct related to management activities. All of these cases were related to theft of association funds. Additionally, many of the complaints received by the Division and reported during the sunset review reflect the findings of the 2012 sunrise review.

Community Association Managers have access to association funds, which is often in the millions of dollars. An association relies on these funds to ensure the common areas, facilities and, in some cases, buildings are well maintained, and the loss or mismanagement of these funds can be devastating to a community. As a result, the owners may suffer large assessments in order to bring the reserves up to an amount necessary to pay for the daily operation of the community, which may include water bills, trash removal, landscaping and professional services, not to mention necessary upkeep such as repainting buildings, replacing old roofs, repairing driveways and any emergency situations that may arise.

Ensuring Community Association Managers do not steal or mishandle association funds is an important reason to regulate the industry. The Division has the ability to audit the business records of Community Association Managers, and through these audits, the Division may uncover misconduct.

The sunset criteria in section 24-34-104, C.R.S., question whether the agency operates in the public interest.

Community Association Managers have only been licensed since July 1, 2015, so there are only two years of data available to determine how effective the program is at addressing the potential harm.

In order to be licensed to manage an association for compensation, a Manager must obtain certification through one of the following private organizations:

- The Community Associations Institute, or
- The Community Association Managers International Certification Board.

In place of obtaining certification from these organizations, a Manager may instead complete 24 hours of education approved by the Director and pass an examination to demonstrate competency in community association management.

Additionally, all applicants must pass an examination of relevant Colorado law and submit to a state and national fingerprint-based criminal history record check.

In fiscal year 16-17, the Director licensed 1,413 Managers, 70 Apprentices and 471 Management Companies. Of the 1,413 Managers, 468 were also licensed as Designated Managers.

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The Director has the authority to protect the public through investigating complaints against Managers and Management Companies and taking enforcement actions against their licenses. If the Director finds a Manager or Management Company has violated the Act or the program rules, the Director has the authority to censure, suspend or revoke a license. The Director also has the authority to place a licensee on probation or issue a fine of up to \$2,500 for each offense.

In fiscal year 16-17, the Director issued one cease and desist order against a company and 11 cease and desist orders against individuals, and revoked one individual license.

As authorized in section 24-34-104, C.R.S., the General Assembly may continue this program for any period between 1 and 15 years.

The period under review represents the entire life of the program. Since this program has only been operating for two years, it is difficult to assess how well it is working. For this reason, the program should be continued for at least five years in order to provide sufficient data from which the effectiveness of the program may be evaluated.

Therefore, the General Assembly should continue the Community Association Management Practice Act (Act) for five years, until 2023.

### **Recommendation 2 – Authorize the Director to establish renewal fees for Management Companies.**

According to section 12-61-1009(1), C.R.S., the Director does not have the authority to establish renewal fees for Management Companies.

The licensing of Community Association Managers, like most licensing programs, is cash funded, which means that license fees pay for the cost of regulation. However, Management Companies are not required to pay renewal fees. Only individual Managers pay fees to renew their licenses.

While both companies and individuals are regulated under this program, most of the revenue is paid for by individual Managers.

If Management Companies were paying renewal fees, the cost to renew an individual Manager license would be reduced.

Some stakeholders maintain that it is the Managers who provide the services, so they must be the source of any regulatory activity. If this were true, then regulation of Management Companies would not be warranted.

Management Companies control the activities of their employees. They determine which employees to hire, what their qualifications are, how to train employees and how to utilize those employees. Management Companies direct the actions of their employees, set the policies and determine the fees and the terms of management agreements.

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Moreover, Management Companies determine which employees must be licensed and may direct unlicensed employees to engage in activities that require a license. All of these activities may drive regulatory actions.

Over the two years that the program has been in place, the majority of the investigative, enforcement and legal services have been directed at unlicensed activity. Management Companies contribute to unlicensed activity and drive many of the complaints. There is a cost to bringing Management Companies into compliance with the licensing requirement, and there also is a cost to the other regulatory activities involving Management Companies.

Some companies may argue that they should not be required to pay to renew their license since they already pay for their employees to be licensed as Managers. While many companies do pay for their employees to be licensed, they are not required by law to do so; it is a business decision made by the companies and a perk for their employees. Not all companies pay for their employees to be licensed.

Therefore, the General Assembly should authorize the Director to establish renewal fees for Management Companies, and the renewal fees should be effective July 1, 2019.

**Recommendation 3 – Amend the definitions of the terms, “community association management” and “Community Association Manager,” and authorize the Director to promulgate rules clarifying the supervision requirements for support staff who are providing clerical, ministerial, accounting or maintenance functions to a licensee and specify any activities that would trigger support staff to be licensed.**

There are several areas in the Act that limit the work that support staff in Management Companies can do without a license. This has resulted in Management Companies securing licenses for employees who should not be required to be licensed.

A Manager oversees the daily business of an association. He or she supervises the maintenance of the property and facilities. A Manager also collects monthly fees, prepares financial statements and budgets, negotiates with contractors and resolves community complaints.<sup>92</sup>

Some Managers may also handle administrative duties such as answering phone calls, sending out email blasts and reserving meeting rooms for executive board meetings. However, the essential functions of a Community Association Manager are handling the higher level functions related to running an association. In order to do this effectively, Managers, especially those in larger Management Companies, must be able to delegate much of the routine duties to support staff.

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<sup>92</sup> U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>



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Sunset criteria question whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest.

Administrative assistants and other support staff should not be required to be licensed as long as they are being supervised by a licensed Manager. Managers spend a significant amount of time in the field, so they need staff in the office to be available to answer routine questions from association members and members of the public.

One part of the definition of community association management, highlighted below, is problematic since it seems to require support staff to be licensed as Managers in order to respond to phone calls and emails from members of the association and the public.<sup>93</sup>

*In interactions with members or nonmembers of the common interest community, acting with the authority of the common interest community with respect to its business, legal, financial, or other transactions [emphasis added].*

Repealing the words, “In interactions with members or nonmembers of the common interest community” would create a more clear definition of community association management without risking consumer protection, and it would be consistent with the definition used in Virginia.

Another part of the definition that is problematic is section 12-61-1001(4)(a)(VI), C.R.S., which, in part, defines community association management as:

*Arranging, conducting, or coordinating meetings of the common interest community’s membership or executive board [emphasis added].*

Few would dispute that only licensed Managers should be conducting executive board meetings, but coordinating and arranging meetings may be delegated to administrative assistants. While these terms may relate to functions such as scheduling or finding a meeting room, they may also relate to creating an agenda or drafting documents for a meeting, all of which may be accomplished by an administrative assistant under the supervision of a licensed Manager. By including this language in the definition, it limits these activities to licensed individuals.

Because CCIOA has several requirements related to executive board meetings, Managers must supervise these activities, but it is not necessary for them to perform the activities themselves.

Managers may be disciplined for failing to comply with CCIOA, so if an unlicensed person acting as an administrative assistant is coordinating an executive board meeting, the Manager must still ensure that the activities are compliant with the requirements of CCIOA. Further, a Manager may be disciplined for failing to adequately supervise an unlicensed person.

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<sup>93</sup> § 12-61-1001(4)(a)(I), C.R.S.

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Another section of law that is problematic is section 12-61-1001(5)(b)(I), C.R.S., which exempts from the definition of a Community Association Manager:

A person who, under the *direct* supervision of a Manager, performs any clerical, ministerial, accounting, or maintenance function [emphasis added].

This paragraph is unnecessarily restrictive since it requires “direct supervision” of functions performed by office and maintenance staff. Direct supervision, is a high level of supervision, which implies that the Manager is in the office with staff while they are performing their duties. Clearly, this is an unreasonable requirement. While the Manager should be responsible for the activities of unlicensed staff, this does not necessarily require his or her presence in the office while these duties are being performed.

According to the grounds for discipline, in section 12-61-1010, C.R.S., the Manager’s license is at risk if he or she fails to exercise reasonable supervision over the activities of employees.

As long as the Manager is supervising staff activity, the public should be adequately protected. Direct supervision, however, is excessive. Since Managers cannot comply with this requirement and, at the same time, oversee the business of an association, it is equivalent to requiring support staff to be licensed.

It is unnecessary and overly burdensome to require a receptionist, administrative assistant or a maintenance worker to be licensed as a Manager. The Management Company is already licensed, and a Designated Manager is responsible for the activities of the Management Company. Moreover, Management Companies are responsible for reasonable supervision of the activities of unlicensed staff.

In order to prevent support staff from being unnecessarily licensed, the General Assembly should amend the Act as follows:

- Repeal from section 12-61-1001(4)(a)(I), C.R.S., “In interactions with members or nonmembers of the common interest community”;
- Repeal from section 12-61-1001 (4)(a)(VI), C.R.S., “arranging” and “coordinating” meetings of the common interest community’s membership or executive board; and
- Repeal from section 12-61-1001(5)(b)(I), C.R.S., “direct” from “under the direct supervision of a Manager.”

The General Assembly should also authorize the Director to promulgate rules clarifying the supervision requirements for support staff that provide clerical, ministerial, accounting, or maintenance functions to a licensee and specify any activities that would trigger support staff to be licensed.

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**Recommendation 4 – Amend the supervision requirements for the Apprentice license type, and require the Director to define by rule the appropriate level of supervision related to specific activities of an Apprentice and detail any supervision requirements that are necessary to protect the public.**

The Act creates an Apprentice license type for anyone in training to become a Manager. In order to be licensed as an Apprentice, a candidate must complete an application and a fingerprint-based criminal history record check. An Apprentice is not required to have completed the education and examination requirements, but an Apprentice must work under the control and direct supervision of a licensed Manager. An Apprentice license expires one year after it is issued, and it may not be renewed.

According to the Division, a licensed Apprentice is treated by the Director as an unlicensed person. Since it is unnecessary to license anyone to perform tasks that do not require a license, this license is meaningless.

The question then is: Should the General Assembly sunset the license type? Or, should it amend the statute to create a true training license that is worthwhile to Management Companies?

The sunset criteria question whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest.

Many Management Companies do see value in having a license type for Managers in training, but they find this license type to be too restrictive.

Section 12-61-1001(1), C.R.S., requires an Apprentice to work under the “control and direct supervision” of a fully licensed Manager, and section 12-61-1003(10), C.R.S., states that an Apprentice may not perform any act that requires a Manager license unless he or she is under the direct supervision of a licensed Manager. This is a high level of supervision. Generally, control implies that the supervisor is checking the work of an individual, and direct supervision implies that the supervisor is physically present or on the premises and readily available.

Many companies simply forgo the Apprentice license type and fast track Managers-in-training through the education and examination requirements within a few days of hiring them.

Consumers may be better protected with a training license that allows the candidate to be trained, take classes and pass the examinations without condensing this process into a period of a few days, allowing someone to be fully licensed prematurely. In this way, the trainee would likely absorb more of the education and training than he or she would by being rushed through the process.

An Apprentice is not the same as an unlicensed person since an Apprentice is training under the license of a fully licensed Manager, and he or she should not be treated as an unlicensed person.

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Not everyone agrees on the level of supervision necessary for an Apprentice.

Clearly, an Apprentice should not be allowed to do all the work of a fully licensed Manager without some oversight since the Apprentice has not completed the courses or the examination. However, it is unreasonable for the Apprentice to always be in the presence of a fully licensed Manager as long as the Manager is responsible for the work that the Apprentice performs.

The one setting where nearly all stakeholders agree that an Apprentice should not be allowed to work without direct supervision is in executive board meetings.

It is likely that the level of supervision should be graduated as the training progresses. However, this is difficult to regulate, and it is likely best left to the Management Companies to determine based on their practices, the types of associations they serve and the progress and aptitude of individual Apprentices. As long as an Apprentice is supervised by a fully licensed Manager and the Manager and the Management Company are responsible for the activities of the Apprentice, the public should be protected.

If an Apprentice is not properly supervised, the Director can discipline the entity, the Designated Manager and any Managers who were charged with supervision.

Therefore, the General Assembly should amend the requirement for direct supervision and replace it with general supervision instead. It should also require any supervising Managers, the Designated Manager and the Management Company to be responsible for the activities of an Apprentice, and clarify that it is grounds for discipline to fail to adequately supervise the activities of an Apprentice.

The General Assembly should specify that an Apprentice may not conduct or assist in the conduct of an association meeting without the presence of a fully licensed Manager, and it should also require the Director to define by rule the appropriate level of supervision related to specific activities of an Apprentice and detail any other supervision requirements that are necessary to protect the public.

**Recommendation 5 – Repeal any references to private, professional credentials and authorize the Director to approve, by rule, any credentials, examinations or education deemed equivalent or superior to the education and examination otherwise required by the director.**

In order to become licensed, an applicant must hold one of the following credentials:<sup>94</sup>

- A Certified Manager of Community Associations (CMCA) certification from the Community Association Managers International Certification Board (CAMICB),
- The Professional Community Association Manager (PCAM) designation from the Community Associations Institute (CAI), or
- The Association Management Specialist (AMS) designation from CAI.

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<sup>94</sup> § 12-61-1003(5)(a)(I), C.R.S.

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The Director also has the authority to approve other credentials by rule.

If an applicant does not hold the above credentials from CAI or CAMICB, the Director provides an alternative route to licensure. Instead, an applicant may complete 24 hours of classroom or distance learning courses approved by the Director.

Additionally, an applicant must pass an examination. The first part, or General Portion, tests the applicant's competency in carrying out the core functions of community association management. The second part, or Colorado Portion, tests the applicant's understanding of the basic provisions of legal documents and Colorado law related to community association management.<sup>95</sup>

However, an applicant who has a PCAM, AMS or CMCA credential and has maintained the credential in good standing is not required to pass the General Portion of the examination<sup>96</sup> since it is assumed that an individual with one of these professional credentials has already passed an examination in order to demonstrate competency.

The sunset criteria question whether agency operations are impeded or enhanced by existing statutes.

While the current education and examination provided by the enumerated professional organizations may be the best in the industry today, this status can change over time. An educational course or an examination may cease to be relevant to the profession, or it may no longer provide content that protects the public. Additionally, since the statute simply requires an individual to hold certification from CAI or CAMICB, it is possible that one or both of these organizations may cease to require any education or examination as a condition of certification; they could simply require candidates to pay a fee for certification. The professional association could also develop unfair or discriminatory policies and practices. Finally, they may simply cease to exist or change their names.

In order to ensure applicants are qualified, the specific names of credentials should be repealed, and the Director should simply have the authority to approve any credentials used to qualify for a license by rule.

The Director may still approve the credentials offered by CAI and CAMICB, but the Director would have the ability to repeal approval if he or she determines any of the credentials no longer protect the public.

In summary, the General Assembly should repeal the names of any private, professional associations and their credentials, and it should, instead, authorize the Director to approve, by rule, any credentials, examinations or education deemed equivalent or superior to any education and examination required by the Director.

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<sup>95</sup> § 12-61-1003(5)(a)(III), C.R.S.

<sup>96</sup> § 12-61-1003(5)(a)(IV), C.R.S.

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## Recommendation 6 – Enhance the due process protections of a cease and desist order.

To date, cease and desist orders entail the majority of enforcement activity in the program. Unfortunately, the language addressing cease and desist orders is extremely limited compared to that of other regulatory programs.

Section 12-61-1002(3)(a), C.R.S., simply states:

If the Director has reasonable cause to believe that a person is violating [the Act] or a rule adopted under [the Act], the Director may enter an order requiring the person to cease and desist the violation.

The Act does not provide any direction regarding time frame or due process procedures.

The statutes creating other licensing programs in the state offer provisions that allow for due process and provide a timeline for the issuance of cease and desist orders.

For example, the Dental Practice Act gives the Colorado Dental Board two options:

1. To issue a cease and desist order if the activity is an immediate threat to the public, and then the respondent has 10 days to request a hearing before an administrative law judge, or
2. To issue a show cause order and have a prompt hearing prior to the Dental Board issuing a final cease and desist order.

Some other licensing programs that have similar language are those regulating:

- Accountants,<sup>97</sup>
- Audiologists,<sup>98</sup>
- Electricians,<sup>99</sup>
- Engineers,<sup>100</sup>
- Landscape architects,<sup>101</sup>
- Mental health providers,<sup>102</sup>
- Pharmacists,<sup>103</sup>
- Plumbers,<sup>104</sup>
- Private investigators,<sup>105</sup> and
- Veterinarians.<sup>106</sup>

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<sup>97</sup> § 12-2-126, C.R.S.

<sup>98</sup> § 12-29.9-110, C.R.S.

<sup>99</sup> § 12-23-118, C.R.S.

<sup>100</sup> § 12-25-109, C.R.S.

<sup>101</sup> § 12-45-114, C.R.S.

<sup>102</sup> § 12-43-223, C.R.S.

<sup>103</sup> § 12-42.5-124, C.R.S.

<sup>104</sup> § 12-58-110, C.R.S.

<sup>105</sup> § 12-58.5-109, C.R.S.

<sup>106</sup> § 12-64-111, C.R.S.

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Adopting such provisions in the Act would outline a system of due process for respondents who may be engaging in a legitimate business practice.

Therefore, the General Assembly should:

- Authorize the Director to immediately issue a cease and desist order if the Director determines the activity to be an immediate threat to the public, and provide the respondent 10 days to request a hearing before an administrative law judge; and
- Authorize the Director to issue a show cause order and schedule a prompt hearing prior to issuing a final cease and desist order.

**Administrative Recommendation 1 – The Director should create an advisory committee to assist with drafting rules regarding the use of unlicensed support staff and licensed Apprentices.**

Recommendations 3 and 4 of this sunset report attempt to address issues related to the supervision of unlicensed staff and licensed Apprentices statutorily. However, rulemaking will be required to ensure that clear directives are created for the industry.

In order to ensure that the rules that are drafted consider the business practices of the industry while still protecting the public, the Director should appoint an advisory committee.

The advisory committee should be created to make recommendations regarding rules addressing:

- The supervision requirements for support staff,
- The activities that would trigger support staff to be licensed,
- The appropriate level of supervision related to specific activities of an Apprentice, and
- Any supervision requirements for Apprentices necessary to protect the public.

At a minimum, the advisory committee should include 12 members:

- Three representatives from licensed entities,
- Three licensed individuals,
- A representative from the Community Associations Institute,
- An attorney who represents Management Companies,
- An attorney who represents associations, and
- Three executive board members of common interest communities.

To the extent possible, membership should draw from different sized common interest communities, different sized management companies, and various geographic regions throughout the state.

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In summary, the Director should create a Community Association Management Advisory Committee in order to better understand the business practices of the industry. Any recommendations of the advisory committee should ensure that regulation of Community Association Managers related to unlicensed staff and licensed Apprentices adequately protects the public without being unnecessarily burdensome to the industry.



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## Appendix A - Survey of Individual Licensed Managers

In July 2017, COPRRR conducted a survey of all actively licensed individual Community Association Managers. COPRRR sent the survey link to 1,468 licensees via email addresses provided by the Division of Real Estate. Of these, 345 individuals responded. This represents a response rate of approximately 24 percent.

**1. Is regulation of individual community association managers necessary to protect the public?**

Yes	188	54.5%
No	157	45.5%

**2. Is regulation of management companies necessary to protect the public?**

Yes	231	67%
No	114	33%

**3. How many units do you manage?**

Less than 250 units	134	38.8%
250 to 500 units	59	17.1%
501 to 750 units	23	6.7%
751 to 1,000 units	31	9.0%
Over 1,000 units	98	28.4%

**4. How long have you worked as a community association manager?**

Less than a year	20	5.8%
One to three years	66	19.1%
Four to six years	52	15.1%
Seven to ten years	49	14.2%
Eleven to twenty years	95	27.5%
Over twenty years	63	18.3%

**5. Are you the sole proprietor of a community association management company?**

Yes	86	24.9%
No	259	75.1%

**6. Does the management company or homeowners association(s) you work for cover the cost of your license fee?**

Yes	220	84.9%
No	39	15.1%

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**7. In addition to the state license, please indicate which, if any, of the following professional certificates related to community association management you hold:**

Certified Manager of Community Association “CMCA”	160	46.4%
Association Management Specialist “AMS”	63	18.3%
Professional Community Association Manager “PCAM”	30	8.7%
None	171	49.6%

**8. Which education provider did you utilize to complete the 24-hour course required to qualify for a CAM license?**

Did not complete the 24-hour course since I already had a CMCA, AMS or PCAM credential.	96	27.8%
American Real Estate College	2	0.6%
Colorado Real Estate School	64	18.6%
Community Association Institute M-100, Colorado Edition	106	30.7%
Real Estate Training Center of Colorado	12	3.5%
Van Education Center	65	18.8%

**9. What was the quality of the course?**

Excellent	58	23.3%
Very good	79	31.7%
Good	79	31.7%
Needs improvement	30	12.0%
Poor	3	1.2%

**10. Did you take the General portion of the exam provided by the Division of Real Estate?**

Yes	231	92.8%
No	18	7.2%

**11. What was the quality of the General portion of the exam?**

Excellent	16	6.9%
Very good	57	24.7%
Good	88	38.1%
Needs improvement	54	23.4%
Poor	16	6.9%

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**12. What was the quality of the Colorado Law portion of the exam?**

Excellent	19	5.5%
Very good	87	25.2%
Good	126	36.5%
Needs improvement	87	25.2%
Poor	26	7.5%

**13. How efficient was the process to obtain a license?**

Exceptionally efficient	5	1.4%
Very efficient	67	19.4%
Fairly efficient	156	45.2%
Needs improvement	86	24.9%
Inefficient	31	9.0%

**14. Have you attempted to contact the Division of Real Estate regarding any licensing issues?**

Yes	178	51.6%
No	167	48.4%

**15. If so, how responsive was the Division?**

Exceptionally responsive	18	10.1%
Very responsive	56	31.5%
Fairly responsive	57	32.0%
Needs improvement	45	25.3%
I never received a response from the Division.	2	1.1%

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## Appendix B - Survey of Licensed Companies

In July 2017, COPRRR conducted a survey of all actively licensed Management Companies. COPRRR sent the survey link to 460 licensees via email addresses provided by the Division of Real Estate. Of these, 90 entities responded. This represents a response rate of approximately 20 percent.

**1. Is regulation of individual community association managers necessary to protect the public?**

Yes	42	53.3%
No	48	46.7%

**2. Is regulation of management companies necessary to protect the public?**

Yes	54	60%
No	36	40%

**3. Does your company cover the cost of a license for each individual community association manager it employs?**

Yes	82	91.1%
No	8	8.9%

**4. When your company obtained a license through the Division of Real Estate, was the process efficient?**

Exceptionally efficient	2	2.2%
Very efficient	12	13.3%
Fairly efficient	40	44.4%
Needs improvement	22	24.4%
Inefficient	14	15.6%

**5. Have you attempted to contact the Division of Real Estate regarding any licensing issues?**

Yes	68	75.6%
No	22	24.4%

**6. When you contacted the Division to address licensing issues, how responsive was the staff?**

Exceptionally responsive	8	11.8%
Very responsive	18	26.5%
Fairly responsive	24	35.3%
Needs improvement	18	26.5%
I never received a response from the Division.	0	

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**7. On average, how much does your company charge in total fees related to the transfer of a property?**

We don't charge any fees related to transferring property.	18	20%
Less than \$200	31	34.4%
\$200 to \$399	40	44.4%
\$400 to \$599	0	
\$600 to \$799	1	1.1%
\$800 to \$999	0	
\$1,000 or more	0	

**8. How quickly does your company disclose fees associated with the transfer of a property when it receives a request?**

All fees related to the transfer of property are available on the company website or the associations' websites.	25	27.8%
Within 24 hours	44	48.9%
Within 48 hours	10	11.1%
Within 72 hours	7	7.8%
Within 3 business days	2	2.2%
Longer than 3 business days	2	2.2%