

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0783.01 Duane Gall x4335

HOUSE BILL 16-1133

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HOUSE SPONSORSHIP

Windholz,

SENATE SPONSORSHIP

(None),

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House Committees

State, Veterans, & Military Affairs

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF COMMUNITY ASSOCIATION  
102 MANAGERS, AND, IN CONNECTION THEREWITH, STRENGTHENING  
103 DISCLOSURE REQUIREMENTS REGARDING AMOUNTS PAYABLE  
104 FOR MANAGEMENT SERVICES AND UPON TRANSFER OF  
105 PROPERTY, REDUCING LICENSE FEES AND CONTINUING  
106 EDUCATION REQUIREMENTS FOR MANAGERS OF SMALL  
107 ASSOCIATIONS, AND AUTHORIZING DISCIPLINARY ACTION  
108 AGAINST MANAGERS WHO FAIL TO COMPLY WITH APPLICABLE  
109 LAWS AND RULES.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

*applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)*

Current law requires licensure of community association managers, also known as CAMs or "managers", who contract with homeowners' associations (HOAs) to carry out specialized functions such as preparing budgets, hiring landscapers to maintain common areas, etc. **Section 1** of the bill defines a "small HOA community association manager" as one who services one or more HOAs with a combined total of 30 or fewer homes or condominium units. Section 1 also removes an existing exemption from the CAM licensing requirements for managers of time-share communities.

**Sections 2 and 5** require the director of the division of real estate (director) to adopt less stringent credentialing, educational, and continuing educational requirements and lower license fees for small HOA managers.

**Section 3** requires all managers to provide detailed disclosures of fees and charges, including any transfer fees that are payable upon sale of a unit in an HOA. A detailed listing of, and justification for, transfer fees must be provided to the parties to a purchase and sale at least 3 days before closing. The manager must also provide to any HOA with which the manager has or wishes to have a management contract, at least annually, a certified copy of his or her current and valid manager's license.

**Section 4** requires the director to publish on the division of real estate's website a searchable list of CAMs and the HOAs they serve, including addresses, license status, and any pending complaints or disciplinary actions.

**Section 6** adds the following acts or omissions to the grounds for discipline of a licensed manager:

- ! Knowingly violating or directing others to violate the covenants or rules of an HOA;
- ! Failing to notify and recommend corrective action to an HOA board member if the manager believes the board member is violating the law or rules governing the HOA;
- ! Failing to report to the director any board member who continues to violate the law or rules after being notified; and
- ! Violating the disclosure requirements imposed by section 3 of the bill.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-1001, **amend**

1 (3); and **add** (8.5), (11), and (12) as follows:

2 **12-61-1001. Definitions.** As used in this part 10, unless the  
3 context otherwise requires:

4 (3) (a) "Common interest community" has the meaning set forth  
5 in section 38-33.3-103 (8), C.R.S., ~~except that "common interest~~  
6 ~~community" does not include:~~ AND INCLUDES TIME SHARE COMMUNITIES.

7 ~~(I) A community managed by an association or unit owners'~~  
8 ~~association in which a majority of units that are designated for residential~~  
9 ~~use are time share units, as defined in section 38-33-110 (7), C.R.S., or~~  
10 ~~consist of time share interests as defined in section 12-61-401 (4); or~~

11 ~~(II) A community, resort, or development registered with the~~  
12 ~~Colorado division of real estate as a time share subdivision.~~

13 ~~(b) As used in this subsection (2), "majority of units" means the~~  
14 ~~units to which are allocated more than fifty percent of the allocated~~  
15 ~~interests in the common interest community appurtenant to all units that~~  
16 ~~are designated for residential use.~~

17 (8.5) "GOVERNING DOCUMENTS" MEANS THE DECLARATION,  
18 BYLAWS, OR RULES AND REGULATIONS OF AN HOA.

19 (11) "RULES AND REGULATIONS" HAS THE MEANING SET FORTH IN  
20 SECTION 38-33.3-103 (27), C.R.S.

21 (12) "SMALL HOA COMMUNITY ASSOCIATION MANAGER" MEANS  
22 A COMMUNITY ASSOCIATION MANAGER WHO SERVICES ONE OR MORE  
23 COMMON INTEREST COMMUNITIES WITH A COMBINED TOTAL OF THIRTY OR  
24 FEWER UNITS.

25 **SECTION 2.** In Colorado Revised Statutes, 12-61-1003, **amend**  
26 (5) (a) (I) (C), (5) (a) (I) (D), (5) (a) (II), and (5) (a) (III); and **add** (5) (a)  
27 (I) (E) as follows:

1           **12-61-1003. Application for license - criminal history record**

2           **check - examination - rules.** (5) (a) An applicant for a manager's license  
3 must:

4           (I) Hold one or more of the following credentials:

5           (C) The "professional community association manager" or  
6 "PCAM" designation awarded by the community associations institute;  
7 ~~or~~

8           (D) ~~Another credential identified by the director in rules~~ IN THE  
9 CASE OF A SMALL HOA COMMUNITY ASSOCIATION MANAGER, A  
10 CERTIFICATE OF COMPLETION OF THE APPLICABLE EDUCATIONAL OR  
11 CONTINUING EDUCATIONAL REQUIREMENTS SPECIFIED BY THE DIRECTOR  
12 UNDER SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (III) OF THIS  
13 PARAGRAPH (a); OR

14           (E) ANOTHER CREDENTIAL IDENTIFIED BY THE DIRECTOR IN RULES;

15           (II) Certify completion of ~~any~~ THE APPLICABLE educational or  
16 continuing educational requirements as determined by the director in rules  
17 and published on the division's website;

18           (III) (A) Submit to and pass an examination with two separate  
19 portions, which may be administered separately. The examination must  
20 measure the competency of the applicant in carrying out the core  
21 functions of community association management, referred to as the  
22 "general portion" of the examination, and in understanding the basic  
23 provisions of legal documents and Colorado law with which managers are  
24 required to comply, referred to as the "Colorado law portion" of the  
25 examination. The examination shall be prepared by or under the  
26 supervision of the director or the director's designated contractor or  
27 contractors. The director may contract with one or more independent

1 testing services to develop, administer, or grade examinations or to  
2 administer licensee records. The contracts may allow the testing service  
3 to recover from the applicant the costs of the examination and the costs  
4 of administering the examination and license records. The director may  
5 contract separately for these functions and allow recovered costs to be  
6 collected and retained by a single contractor for distribution to other  
7 contractors. The director may set the separate minimum passing scores for  
8 the general portion and the Colorado law portion of the examination. The  
9 director shall prescribe the times and places at which the examination as  
10 a whole is given or at which the separate portions of the examination are  
11 given. A PROVIDER OF EDUCATIONAL COURSES OR CLASSES IS INELIGIBLE  
12 TO ADMINISTER EXAMINATIONS FOR LICENSURE UNDER THIS PART 10.

13 (B) FOR APPLICANTS WHO SEEK LICENSURE ONLY AS SMALL HOA  
14 COMMUNITY ASSOCIATION MANAGERS, THE DIRECTOR SHALL PREPARE OR  
15 DIRECT THE PREPARATION OF EDUCATIONAL COURSES AND TESTING THAT  
16 ARE LESS COMPREHENSIVE THAN THOSE APPLICABLE TO MANAGERS  
17 GENERALLY BUT COMMENSURATE WITH THE RESPONSIBILITIES OF  
18 MANAGERS SERVING SMALL HOAs, AS DETERMINED BY THE DIRECTOR.

19 (C) ALL EDUCATIONAL COURSES OFFERED UNDER THIS PART 10 BY  
20 PROVIDERS OFFERING COURSES IN STATES OTHER THAN COLORADO ARE  
21 SUBJECT TO CERTIFICATION BY THE DIRECTOR FOR CONTENT AND  
22 APPLICABILITY TO COLORADO HOA LAWS. THIS CERTIFICATION MUST BE  
23 COMPLETED NO LESS FREQUENTLY THAN EVERY TWO YEARS OR UPON THE  
24 PASSAGE OF ANY COLORADO STATE LAW APPLICABLE TO HOA  
25 GOVERNANCE AND HOA PROPERTY MANAGER RESPONSIBILITIES.

26 **SECTION 3.** In Colorado Revised Statutes, 12-61-1004.5,  
27 **amend** (1) and (2); and **add** (3.5) and (3.6) as follows:

1           **12-61-1004.5. Fees and charges for contracted services and**  
2 **home sales - disclosure required.** (1) (a) Every manager, and every  
3 agent or other person who represents or negotiates on behalf of a  
4 manager, shall disclose to the executive board of each HOA for which it  
5 provides or offers to provide services, during contract negotiations and  
6 thereafter on an annual basis:

7           (I) All fees and other amounts that the manager charges or will  
8 charge to the common interest community, unit owners, and purchasers  
9 of units in the common interest community for or as a result of any  
10 service, product, transaction, or item of value provided by the manager,  
11 any employee or contractor of the manager, or any other individual or  
12 entity with whom the manager associates in the performance of  
13 community association management services; AND

14           (II) A CERTIFIED COPY OF THE MANAGER'S CURRENT AND VALID  
15 LICENSE ISSUED BY THE DIRECTOR PURSUANT TO THIS PART 10. THIS COPY  
16 MUST BE SUPPLIED ANNUALLY REGARDLESS OF WHETHER THE LICENSE  
17 REQUIRES RENEWAL.

18           (b) IN ADDITION TO THE DISCLOSURE TO THE EXECUTIVE BOARD IN  
19 ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1), A MANAGER  
20 SHALL PROVIDE A RECEIPT CONTAINING DETAILED INFORMATION AND  
21 DOCUMENTATION TO THE HOA, UNIT OWNER, OR THIRD PARTY SUCH AS A  
22 TITLE COMPANY OR MORTGAGEE, AS THE CASE MAY BE, REGARDING EVERY  
23 FEE, ASSESSMENT, OR COLLECTION RECEIVED BY THE MANAGER IN  
24 CONNECTION WITH, OR AS A CONSEQUENCE OF, THE MANAGER'S CONTRACT  
25 WITH THE HOA AS FOLLOWS:

26           (I) THE RECEIPT MUST REFERENCE THE PORTION OF THE  
27 MANAGER'S CONTRACT AUTHORIZING THE FEE, ASSESSMENT, OR

1 COLLECTION AND MUST SPECIFICALLY INDICATE THE JUSTIFICATION FOR,  
2 AND THE SPECIFIC AMOUNTS OF, ANY CHARGES FOR SEPARATE OR PERIODIC  
3 TRANSACTIONS THAT ARE NOT CONSIDERED IN THE BASELINE SERVICES  
4 PROVIDED TO THE HOA.

5 (II) FOR EACH UNIT OWNER OR OTHER PARTY WHO IS  
6 INDIVIDUALLY BILLED FOR ANY AMOUNT, THE RECEIPT MUST CONTAIN A  
7 SUMMARY OF THE WORK PERFORMED, A DETAILED DESCRIPTION OF EACH  
8 TASK AND INDIVIDUAL CHARGE INCLUDED IN THE TOTAL, AND THE LEGAL  
9 AUTHORITY FOR HOLDING THE UNIT OWNER OR OTHER PARTY  
10 INDIVIDUALLY RESPONSIBLE FOR PAYMENT.

11 (2) Neither a manager nor any agent of a manager may enforce  
12 any fee or charge, including a transfer fee, against the HOA or any buyer  
13 or seller of property served by the HOA unless the fee or charge is

14 ~~(a)~~ explicitly disclosed in the manager's contract with the HOA or  
15 an addendum to the contract ~~or~~ AND THE DISCLOSURE INCLUDES THE  
16 AMOUNT OF THE FEE OR CHARGE AND THE JUSTIFICATION FOR IT. WITH  
17 RESPECT TO AN HOA TRANSFER FEE, THE FEE MUST BE

18 ~~(b)~~ documented by a clearly identified line item on a real estate  
19 closing settlement statement AND, IN ADDITION:

20 (a) THE MANAGER CERTIFIES THAT THE FEE OR CHARGE IS NOT FOR  
21 WORK THAT IS ORDINARILY PERFORMED UNDER THE MANAGER'S  
22 CONTRACT WITH THE HOA, ALREADY PAID FOR BY HOA DUES, OR  
23 ALREADY PAID BY ANOTHER PARTY; AND

24 (b) IN THE CASE OF A TRANSFER FEE:

25 (I) THE MANAGER CERTIFIES THAT:

26 (A) THE FEE HAS NOT BEEN CHARGED TO OR PAID, IN WHOLE OR IN  
27 PART, BY A TITLE COMPANY OR OTHER PARTY IN THE HOME CLOSING

1 PROCESS;

2 (B) THE PURCHASE OF THE UNIT IS NOT FINANCED, WHOLLY OR  
3 PARTIALLY, BY A FHA OR HUD LOAN UNDER WHOSE TERMS THE  
4 TRANSFER FEE IS NOT AUTHORIZED;

5 (C) THE FEE COMPLIES WITH, AND IS ENFORCEABLE UNDER,  
6 SECTION 38-35-127, C.R.S.; AND

7 (II) AT LEAST THREE DAYS BEFORE THE CLOSING OR OTHER EVENT  
8 REQUIRING PAYMENT OF THE TRANSFER FEE, THE PARTY RESPONSIBLE FOR  
9 THE TRANSFER FEE IS PROVIDED WITH WRITTEN DOCUMENTATION  
10 COMPLYING WITH PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

11 (3.5) ALL FEES CHARGED BY A MANAGER MUST BE REASONABLE  
12 AND NOT EXCEED THE AMOUNTS NECESSARY TO RECOVER COSTS PLUS A  
13 REASONABLE PROFIT MARGIN.

14 (3.6) HOA TRANSFER FEES MUST BE FOR COSTS INCURRED BY THE  
15 MANAGER DUE TO THE SALE OF A UNIT IN THE HOA AND SUCH CHARGES  
16 ASSESSED A UNIT OWNER MUST BE JUSTIFIED AS BEING NOT OTHERWISE  
17 PAID FOR VIA HOA DUES OR BY ANY THIRD PARTY, SUCH AS A TITLE  
18 COMPANY OR MORTGAGE COMPANY, AND MUST NOT INCLUDE ANY  
19 DISCRETIONARY, UNNECESSARY, OR SPECIAL CHARGES THAT ARE NOT  
20 ORDINARILY REQUIRED TO COMPLETE THE PROPERTY OWNERSHIP  
21 TRANSFER WORK.

22 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-61-1007  
23 as follows:

24 **12-61-1007. Record of licensees - publications.** (1) The director  
25 shall maintain a record of the names and addresses of all community  
26 association managers licensed under this part 10, together with THE  
27 INFORMATION DESCRIBED IN SUBSECTION (2) OF THIS SECTION AND ~~such~~



1 other information relative to the enforcement of this part 10 as THAT the  
2 director deems necessary.

3 (2) (a) The director shall publish the ~~name and address record and~~  
4 ~~other nonproprietary information the director deems useful to the public~~  
5 FOLLOWING INFORMATION ABOUT EACH LICENSED COMMUNITY  
6 ASSOCIATION MANAGER on the division's ~~web site~~ WEBSITE, SEARCHABLE  
7 EITHER BY THE NAME OF THE MANAGER OR THE NAME OF AN HOA THE  
8 MANAGER SERVES:

9 (I) THE MANAGER'S NAME AND BUSINESS ADDRESS;

10 (II) THE NAME OF EACH HOA THE MANAGER SERVES;

11 (III) THE TYPE OF LICENSE HELD BY THE MANAGER AND THE  
12 STATUS OF THE LICENSE, INCLUDING A REGULAR LICENSE, APPRENTICE OR  
13 TEMPORARY LICENSE, SMALL HOA LICENSE, OR SUSPENDED OR REVOKED  
14 LICENSE; AND

15 (IV) THE EXPIRATION DATE OF THE MANAGER'S LICENSE.

16 (b) IN ADDITION, THE DIRECTOR SHALL PUBLISH A REPORT,  
17 UPDATED DAILY, LISTING ALL PENDING COMPLAINTS AND DISCIPLINARY  
18 PROCEEDINGS, AND MAY PUBLISH OTHER LICENSING INFORMATION THAT  
19 THE DIRECTOR DEEMS USEFUL TO THE PUBLIC.

20 (3) Publication of ~~the record and of any other~~ information  
21 circulated in quantity outside the executive branch must be in accordance  
22 with section 24-1-136, C.R.S.

23 **SECTION 5.** In Colorado Revised Statutes, 12-61-1009, **add**  
24 (1.5) as follows:

25 **12-61-1009. License fees - partnership, limited liability**  
26 **company, and corporation licenses - rules.** (1.5) THE DIRECTOR SHALL  
27 ESTABLISH REDUCED FEES FOR SMALL HOA COMMUNITY ASSOCIATION

1 MANAGERS IN EACH OF THE CATEGORIES SPECIFIED IN PARAGRAPHS (a) TO  
2 (c) AND (e) OF SUBSECTION (1) OF THIS SECTION.

3 **SECTION 6.** In Colorado Revised Statutes, 12-61-1010, **amend**  
4 (1) (p.5) and (1) (q); and **add** (1) (r), (1) (s), (1) (t), (1) (u), and (8) as  
5 follows:

6 **12-61-1010. Investigation - revocation - actions against**  
7 **licensee.** (1) The director, upon the director's own motion, may, and,  
8 upon the complaint in writing of any person, shall, investigate the  
9 activities of any licensee or any person who assumes to act in the capacity  
10 of a licensee within the state. The director, after holding a hearing in  
11 accordance with the "State Administrative Procedure Act", article 4 of  
12 title 24, C.R.S., may impose an administrative fine not to exceed two  
13 thousand five hundred dollars for each separate offense, censure a  
14 licensee, place the licensee on probation and set the terms of probation,  
15 or temporarily suspend or permanently revoke a license when the licensee  
16 has performed, is performing, or is attempting to perform any of the  
17 following acts and is guilty of:

18 (p.5) Acting outside the scope of authority granted by the issuance  
19 of a license; ~~or~~

20 (q) ~~Any other conduct, whether of the same or a different~~  
21 ~~character than specified in this subsection (1), that constitutes dishonest~~  
22 ~~dealing~~ KNOWINGLY VIOLATING OR DIRECTING OTHERS TO VIOLATE THE  
23 GOVERNING DOCUMENTS OF AN HOA;

24 (r) FAILING TO GIVE WRITTEN NOTICE AND A WRITTEN  
25 RECOMMENDATION FOR CORRECTIVE ACTION TO A MEMBER OF THE  
26 EXECUTIVE BOARD OF AN HOA WHEN, IN THE MANAGER'S OPINION, THE  
27 MEMBER'S ACTIONS VIOLATE CCIOA OR THE GOVERNING DOCUMENTS;

1 (s) FAILING TO REPORT TO THE DIRECTOR WITHIN TEN DAYS AFTER  
2 A BOARD MEMBER'S FAILURE TO TAKE CORRECTIVE ACTION WITHIN SEVEN  
3 DAYS AFTER RECEIPT OF A NOTICE GIVEN UNDER PARAGRAPH (r) OF THIS  
4 SUBSECTION (1);

5 (t) FAILURE TO MAKE ANY DISCLOSURE REQUIRED BY SECTION  
6 12-61-1004.5 (1); OR

7 (u) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A DIFFERENT  
8 CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT CONSTITUTES  
9 DISHONEST DEALING.

10 (8) THE DIRECTOR SHALL MAKE AVAILABLE TO THE PUBLIC THE  
11 NAME AND ADDRESS OF RECORD OF EACH COMMUNITY ASSOCIATION  
12 MANAGER WHO HAS HAD HIS OR HER LICENSE REVOKED OR HAS BEEN  
13 ASSESSED PENALTIES OR FINES.

14 **SECTION 7. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly (August  
17 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
18 referendum petition is filed pursuant to section 1 (3) of article V of the  
19 state constitution against this act or an item, section, or part of this act  
20 within such period, then the act, item, section, or part will not take effect  
21 unless approved by the people at the general election to be held in  
22 November 2016 and, in such case, will take effect on the date of the  
23 official declaration of the vote thereon by the governor.