



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 48-50 – Common Interest Community Manager Regulations
Department of Professional and Occupational Regulation
April 9, 2009

Summary of the Proposed Amendments to Regulation

Pursuant to §54.1-2348, the Common Interest Community Board (Board) proposes to promulgate regulations to govern the licensure of common interest community managers. With this regulatory action, the Board proposes to set:

- licensure requirements,
- licensure fees,
- renewal and reinstatement requirements,
- standards of conduct and
- criteria for Board approved training programs and testing.

These proposed regulations will replace emergency regulations that will expire November 12, 2009.

Result of Analysis

There is insufficient information to decide if benefits outweigh costs for these proposed regulations.

Estimated Economic Impact

Until legislation mandated it in 2008, common interest community (CIC) managers were not required to be licensed. The Board has already promulgated emergency regulations to license managers and has, as directed by legislation, issued provisional licenses to all eligible CIC managers. According to Chapter 851 of the 2008 Act of the Assembly, “any person,

partnership, corporation, or other entity offering management services to a common interest community on or before December 31, 2008, who makes application for licensure prior to January 1, 2009” is eligible to receive a provisional license which will expire on June 30, 2011. Thereafter, these entities will be subject to the renewal (\$100 application fee) and/or reinstatement (\$300 application fee) mandates in these proposed regulations. Entities who do not meet the criteria for provisional licensure will be licensed under the provisions for initial licensure (\$100 application fee + \$25 recovery fund fee).

In order to qualify for initial licensure as a CIC manager, a firm (as defined in the proposed regulations) must:

1. disclose all pertinent identifying information (names under which the firm conducts business, mailing address, physical address, etc),
2. disclose any felony convictions or pleas of nolo contendere as well as any misdemeanor convictions within the three years immediately preceding application for licensure for the firm, its responsible person and any principals of the firm,
3. submit evidence of a blanket fidelity bond or employee dishonesty insurance policy (in the amounts mandated under §54.1-2346 (D) of the Code of Virginia),
4. adhere to the standards of conduct in these proposed regulations,
5. be in good standing with any Virginia or other state regulatory entity by which the firm has ever been licensed, certified or registered,
6. designate an individual who will be the “responsible person” for the firm who will be responsible for the firm’s compliance with applicable laws and regulations and who will receive any correspondences from the Board and
7. either hold active certification as an Accredited Association Management Company (AAMC) through the Community Associations Institute (CAI) or meet alternate Board approved criteria.

In order to obtain AAMC certification, a firm must have 1) at least three employees, 2) at least three years of experience providing management services, 3) a senior manager with certification as a Professional Community Association Manager (PCAM) and 4) have a staff of which at least 50% of employees hold some sort of professional manager certification as a

Certified Manager of Community Associations (CMCA), a Association Management Specialist (AMS) or a PCAM. In order to gain certification as a CMCA, an individual has to complete approximately 16 hours of training (cost between \$345 and \$495¹) and pass a test (\$300 fee) given through the National Board of Certification for Community Association Managers (NBCCAM). Individuals with CMCA certification can also gain AMS certification by taking an additional training course (cost approximately \$400) and pay an application fee of \$250. Individuals applying for AMS certification must have at least two years of managerial experience. Individuals who have AMS certification can gain PCAM certification by completing five additional training sessions costing roughly \$400 each (a total of approximately \$2,000) and paying a \$295 application fee. Individuals applying for PCAM certification must have at least five years of management experience. AMS and PCAM certified individuals must reapply for certification every three years and PCAM certified individuals must pay an annual maintenance fee of \$175.

The Board has an approved alternate path to licensure in these proposed regulations that requires approximately the same training as do the CAI certifications. Firms may be licensed if there is at least one supervisory employee or company officer with five years of experience in providing management services and that employee has completed an approved comprehensive training program which includes at least 80 contact hours of instruction. Additionally, at least 50% of employees with principal responsibility for management services must either:

1. hold PCAM certification and certify that they have provided managerial services in the 12 months immediately preceding application for licensure,
2. hold CMCA certification and certify that they have provided managerial services for at least two years, twelve months of which was provided in the year immediately preceding application for licensure,
3. hold AMS certification and certify that they have provided managerial services for at least two years, twelve months of which was provided in the year immediately preceding application for licensure or

¹ All fees assume that individuals do not have CAI membership. Fees are lower for members.

4. complete a Board approved introductory training course (16 hours), pass a Board approved certifying exam and have provided managerial services for at least two years, twelve months of which was provided in the year immediately preceding application for licensure.

The Board has not yet approved any training programs so the cost of training for individuals who choose this alternate route to licensure is not known. If Board approved training proves to be more costly than CAI training, it will likely not be greatly utilized. The fee for initial training program approval is \$100 and the fee for a training provider to add a program is \$50.

In addition to all other fees, CIC managers must submit a statutorily required annual assessment of not more than \$1,000. The Department of Professional and Occupational Regulation (DPOR) reports that the average assessment charge thus far is about \$95.

CIC managers that are subject to these proposed regulations will incur the fees listed above as well as opportunity costs for time spent meeting new licensure requirements (time spent in training rather than working or engaging in some other activity, time spent studying for and taking exams, etc). In total, costs for licensure have the potential to be substantial and will likely serve as a barrier to entry for potential new management firms. These costs must be weighed against possible decreases in losses that common interest communities might suffer on account of dishonest or incompetent management. Any benefit from requiring licensure is likely at least partially duplicative of, and mitigated by, the benefits of requiring fidelity bonds or insurance. There is insufficient information to accurately gauge whether the benefits for of requiring licensure in this instance outweigh its costs.

Businesses and Entities Affected

The DPOR reports that there are currently approximately 200 licensed common interest community managers and approximately 4,000 registered CIC associations. Most, if not all, of these entities meet the definition of small businesses.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

The number of individuals employed as CIC managers may decrease on account of these proposed regulations. Employment in Board approved CIC training programs will likely increase. There is insufficient information to gauge what the effect on total employment in the Commonwealth will be.

Effects on the Use and Value of Private Property

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

Small businesses in the Commonwealth will likely incur fees associated with licensure and training as well as opportunity costs for time spent meeting the training requirements of these proposed regulations.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The statute that mandates licensure for CIC managers seems to allow the Board an option to create a path to licensure that would only require passing a (now non-existent) examination. If the Board is able to create an acceptable exam that could serve as an alternate path to licensure, the costs for regulated entities might be decreased.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the

regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.