

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Community Association Manager Licensing and Disciplinary Act
- 2) Code Citation: 68 Ill. Adm. Code 1445
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1445.10	Amendment
1445.20	Amendment
1445.30	Amendment
1445.35	New Section
1445.38	New Section
1445.40	Amendment
1445.50	Amendment
1445.60	Amendment
1445.63	New Section
1445.65	New Section
1445.70	Amendment
1445.80	Amendment
1445.90	Amendment
1445.93	New Section
1445.95	New Section
1445.100	Amendment
1445.105	New Section
1445.110	Amendment
1445.120	New Section
1445.125	New Section
- 4) Statutory Authority: Implementing and authorized by the Community Association Manager Licensing and Disciplinary Act [225 ILCS 427]
- 5) A Complete Description of the Subjects and Issues Involved: PA 98-365, effective January 1, 2014, requires supervising community association managers and community association management firms to be licensed in Illinois, pursuant to Sections 42 and 50, respectively, of the Community Association Manager Licensing and Disciplinary Act [225 ILCS 427/42; 225 ILCS 427/50].

Section 1445.35 sets forth the requirements for temporary licensing as a community association manager. Sections 1445.63 and 1445.65 set forth the required hours and curriculum for continuing education for community association managers and supervising community association managers. Sections 1445.93 and 1445.95 set forth a

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supervising community association manager's areas of supervision and responsibilities. Fees for certification and renewal, as well as general processing fees, are set forth in Section 1445.100. Section 1445.105 sets forth the requirement for fidelity insurance. These rules also set forth the requirements for maintaining association accounts in Section 1445.120. Section 1445.125 sets forth the procedure for the Division's audits of association accounts by outside auditors.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Supervising Community Association Managers, Community Association Managers and Community Association Management Firms as those terms are defined in Section 10 of the Act.
 - B) Reporting, bookkeeping or other procedures required for compliance: Please review the attached proposed amendments.
 - C) Types of professional skills necessary for compliance: Community association management
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VIII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1445

COMMUNITY ASSOCIATION MANAGER LICENSING AND DISCIPLINARY ACT

Section

1445.10	Definitions
1445.20	Requirements for Licensure Under Section 42(c) 40(e) of the Act (Grandfather)
1445.30	Application for Licensure as a Community Association Manager by Examination
<u>1445.35</u>	<u>Temporary Licensing as a Community Association Manager</u>
<u>1445.38</u>	<u>Community Association Management Firms</u>
1445.40	Pre-license Education
1445.50	Acceptable Licensure Examinations
1445.60	Endorsement
<u>1445.63</u>	<u>Continuing Education</u>
<u>1445.65</u>	<u>Curriculum for Continuing Education</u>
1445.70	Renewal
1445.80	Inactive Status
1445.90	Restoration
<u>1445.93</u>	<u>Supervision</u>
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1445.100	Fees
<u>1445.105</u>	<u>Fidelity Insurance</u>
1445.110	Unprofessional Conduct
<u>1445.120</u>	<u>Association Accounts</u>
<u>1445.125</u>	<u>Audits of Association Accounts by Outside Auditors</u>
1445.130	Granting Variances

AUTHORITY: Implementing and authorized by the Community Association Manager Licensing and Disciplinary Act [225 ILCS 427].

SOURCE: Adopted at 35 Ill. Reg. 15585, effective October 1, 2011; amended at 38 Ill. Reg. _____, effective _____.

Section 1445.10 Definitions

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"Act" means the Community Association Manager Licensing and Disciplinary Act [225 ILCS 427].

"Board" means the Illinois Community Association Manager Licensing and Disciplinary Board. [225 ILCS 427/10]

"Credit Hour" means 50 minutes of instruction in course work that meets the requirements set forth in Sections 1445.63 and 1445.65.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Real Estate with the authority delegated by the Secretary~~Professional Regulation~~.

"Division" means the Department of Financial and Professional Regulation-Division of Real Estate~~Professional Regulation~~ with the authority delegated by the Secretary.

"Licensee" means a person who holds a valid unexpired license to act as a Community Association Manager, Supervising Community Association Manager or Community Association Management Firm ~~community association manager~~ under the Act or other authority to practice issued under the Act.

"Person" means any individual, firm, corporation, partnership, limited liability company, limited partnership, limited liability partnership or other legal entity.

~~"Pre-licensing Hours" means participation in an actual classroom setting, or its equivalent, or via an interactive delivery method, which may include, but is not limited to, live instruction and real time discussion via satellite, video, online via webcam or similar communication that occurs between the instructor and students in community association management courses.~~

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

~~"Unit" means a condominium, cooperative, townhouse, villa, or other residential unit in a community association as defined in the Act.~~

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(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.20 Requirements for Licensure Under Section ~~42(c)~~40(e) of the Act (Grandfather)

- a) ~~For a period of 18 months after the adoption of these amendments, Until April 1, 2012,~~ the ~~Department~~Division may issue a Supervising Community Association Manager license to an individual who, in addition to meeting the applicable requirements set forth in Section ~~42(a) and (c)~~40(e) of the Act, provides ~~evidence~~ satisfactory ~~evidence to the Division~~ of the following:
- 1) that the person has practiced as a Community Association Manager for a period of 7 years of the last immediately preceding community association manager for a period of 5 of the last 10 years; ~~and/or~~
 - 2) has achieved and received a designation or certification of:
 - A) Community Associations Institute (CAI) Professional Community Association Manager (PCAM); ~~Association Management Specialist (AMS); or~~
 - ~~B) CAI Professional Community Association Manager (PCAM); or~~
 - ~~B) C) Institute of Real Estate Management (IREM) Certified Property Manager (CPM); or~~
 - ~~C) Any designation approved by the Department.~~
 - ~~D) IREM Accredited Resident Manager (ARM); or~~
 - ~~E) National Board of Certification for Community Association Managers (NBC-CAM) Certified Manager of Community Associations (CMCA).~~
- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the ~~course work or~~ experience is questioned by the ~~Department~~Division or the Board because of a lack of information, discrepancies, ~~or~~ conflicts in information given, or a need for clarification, the applicant seeking licensure shall: ~~1) provide~~Provide information as may be necessary; ~~and/or~~

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- 2) ~~Appear for an interview before the Division and/or the Board, at the discretion of the Division, to explain the relevance or sufficiency, clarify information or address any discrepancies or conflicts in information.~~
- c) Applicants seeking licensure under this Section must submit to the Department, on forms provided by the Department, the following information regarding all community associations for which the applicant has practiced for 7 years of the last immediately preceding 10 years:
- 1) the name, address and phone number of the community associations; and
 - 2) the dates the applicant practiced for the community associations.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.30 Application for Licensure ~~as a Community Association Manager~~ by Examination

- a) An applicant for a license as a Supervising Community Association Manager or a Community Association Manager shall file an application, on forms supplied by the ~~Department~~Division, that includes the following:
- 1) verification that the applicant is at least 21 years of age;
 - 2) satisfactory evidence of completion of~~having completed~~ at least 20 hours of pre-license education~~in community association management courses~~ as set forth in Section 1445.40;
 - 3) successful completion of ~~an~~the examination as set forth in Section 1445.50;
 - 4) the fee required by Section 1445.100; and
 - 5) if applying to become a Supervising Community Association Manager, satisfactory evidence of completion of an additional 10 hours of pre-license education as required by Section 1445.40 and satisfactory evidence that he or she has been licensed at least one year, out of the two immediately preceding years, as a Community Association Manager.

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- b) The pre-license education requirement set forth in subsection (a)(2) shall not apply to persons holding a real estate ~~broker or real estatesalesperson, broker or~~ managing ~~brokerbroker's~~ license in good standing issued under the Real Estate License Act of 2000 [225 ILCS 454]. The pre-license education requirement set forth in subsection (a)(5) shall not apply to persons holding a real estate managing broker license in good standing issued under the Real Estate License Act of 2000.
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the ~~course work or~~ experience is questioned by the ~~DepartmentDivision~~ or the Board because of a lack of information, discrepancies, ~~or~~ conflicts in information ~~given,~~ or a need for clarification, the applicant seeking licensure shall: ~~1) provideProvide~~ information as may be necessary; ~~and/or~~
- 2) ~~Appear for an interview before the Division and/or the Board, at the discretion of the Division, to explain the relevance or sufficiency, clarify information or address any discrepencies or conflicts in information.~~
- d) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied and the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.
- e) Beginning 12 months after the adoption of these amendments, it shall be unlawful for a person to provide Supervising Community Association Manager services, or hold himself or herself out as a Supervising Community Association Manager to any community association in this State, unless he or she holds a current and valid Supervising Community Association Manager license issued by the Department or is otherwise exempt from licensure under the Act.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.35 Temporary Licensing as a Community Association Manager

Pursuant to Section 20(c) of the Act, a person may temporarily act as a Community Association Manager if the person is a Community Association Manager regulated under the laws of another state or territory of the United States or a foreign country and has applied in writing to the Department, on forms provided by the Department, for licensure under the Act.

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- a) This temporary license status shall be used only once during the lifetime of any Community Association Manager licensed in Illinois;
- b) This temporary license status must be confirmed with the Department and is not conferred until the Department determines the above requirements have been met;
- c) If a person is operating under a temporary Community Association Manager license, all duties and responsibilities of a fully licensed Community Association Manager must be met;
- d) Discipline may be imposed on a temporary Community Association Manager licensee as if the person was fully licensed; and
- e) This temporary right shall expire pursuant to Section 20(a) of the Act.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.38 Community Association Management Firms

- a) Beginning 12 months after the adoption of these amendments, it shall be unlawful for persons to render community association management services in this State in the form of a corporation, limited liability company, partnership, limited partnership or limited liability partnership in accordance with Section 50 of the Act unless the person holds a Community Association Management Firm license. A Community Association Management Firm seeking a license shall file an application with the Department, on forms provided by the Department, together with the following:
 - 1) If an assumed name is to be used, a certified copy of the assumed name certificate, pursuant to the Assumed Business Name Act [805 ILCS 405];
 - 2) A Federal Employer Identification Number (FEIN);
 - 3) A properly completed Consent to Examine and Audit Special Accounts form provided by the Department;
 - 4) A properly completed Community Association Management Firm information form;

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- 5) The fee required by Section 1445.100(a)(2); and
 - 6) Evidence that a licensed Supervising Community Association Manager is designated to supervise and manage the Community Association Management Firm. No Supervising Community Association Manager may be the Supervising Community Association Manager of more than one Community Association Management Firm.
- b) All requirements for a license to practice as a Community Association Management Firm shall be met within one year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, the applicant shall file a new application with the required fee.
- c) Corporations, in addition to the items listed in subsection (a), shall submit the following:
- 1) The name of the corporation, its registered address, a list of all officers and the license number for each officer who is licensed as a Supervising Community Association Manager or Community Association Manager;
 - 2) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required;
 - 3) A list of all shareholders, the number of shares of the corporation owned and the license number for each shareholder who is a licensee; and
 - 4) Affidavits of non-participation for all unlicensed officers.
- d) Limited liability companies, in addition to the items listed in subsection (a), shall submit the following:
- 1) The name of the limited liability company, its registered address, if member-managed, a list of all members and the license number for each member who is licensed as a Supervising Community Association Manager or Community Association Manager, or, if manager-managed, a

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list of all managers and the license number for each manager who is licensed as a Supervising Community Association Manager or Community Association Manager. If a member or manager of the limited liability company is an entity, the applicant shall provide the name and license number for any Supervising Community Association Managers or Community Association Managers who are owners, officers, managers, members or partners of the entity;

- 2) A copy of the Articles of Organization filed with the Illinois Secretary of State or, if it is a foreign limited liability company, a copy of the application for admission endorsed by the Illinois Secretary of State; and
- 3) Affidavits of non-participation for all unlicensed members or managers.

e) Partnerships, in addition to the items listed in subsection (a), shall submit the following:

- 1) The name of the partnership, its business address, the names of all general partners and the license number for each general partner who is licensed as a Supervising Community Association Manager or Community Association Manager;
- 2) An affidavit stating that the partnership has been legally formed; and
- 3) Affidavits of non-participation for all unlicensed general partners.

f) Limited partnerships or limited liability partnerships, in addition to the items listed in subsection (a), shall submit the following:

- 1) The name of the limited partnership or limited liability partnership, its business address, the names of all limited partners or limited liability partners, and the license number for each limited partner or limited liability partner who is licensed as a Supervising Community Association Manager or Community Association Manager. If a limited partner or limited liability partner is an entity, the applicant shall provide the name and license number for any Supervising Community Association Managers or Community Association Managers who are owners, officers, managers, members or partners of the entity;

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- 2) A letter of authority from the Illinois Secretary of State's Limited Liability Division or, if it is a foreign limited partnership or limited liability partnership, a copy of the application for admission endorsed by the Illinois Secretary of State; and
 - 3) Affidavits of non-participation for all unlicensed limited partners or unlicensed limited liability partners.
- g) Upon receipt of the required documents and review of the application, the Department shall issue a license authorizing the corporation, limited liability company, partnership, limited partnership or limited liability partnership to practice as a Community Association Management Firm or shall notify the applicant of the reason for the denial of the license.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.40 Pre-license Education

An applicant for a license as a Supervising Community Association Manager or a Community Association Manager shall provide evidence of successful completion of a minimum of 20 hours in community association management coursework as follows:

- a) All Supervising Community Association Manager and Community Association Manager ~~community association manager~~ applicants must satisfactorily complete a minimum of 20 pre-licensing hours of instruction in the~~within~~ 12 months immediately preceding~~prior to~~ the date the licensure~~of~~ examination is taken. No applicant shall be allowed to take the licensure examination unless the applicant provides satisfactory evidence~~documentation~~ of completion of the requisite education. Each hour shall consist of at least 50 minutes of instruction. The Department has the discretion to determine that pre-license education coursework is improper or inadequate.
- b) The 20 hours of education shall be comprised of courses in the following areas:
 - 1) State and federal laws relating to the operation of all types of community associations, governing documents; and State laws relating to corporations, partnerships and nonprofit corporations;

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- 2) Preparation of community association budgets and community association finances;
 - 3) Management, personnel matters, customer service and ethics;
 - 4) Maintenance operations;
 - 5) Insurance matters relating to community associations; and
 - 6) Procedures for noticing and conducting community association meetings.
- c) Applicants who wish to obtain licensure as a Supervising Community Association Manager must also provide satisfactory evidence of completion of an additional 10 credit hours of community association management coursework as outlined in subsections (b)(1), (2) and (3). This coursework shall be completed in the 12 months immediately preceding the filing of an application for a Supervising Community Association Manager license.~~Applicants who have passed and hold certification under Section 1445.50 will be deemed to have met the requirements of this Section.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.50 ~~Acceptable~~ Licensure Examinations

- a) Pursuant to Section 1445.30(a)(3), a Community Association Manager~~community association manager~~ applicant shall successfully complete and pass at least one of the following examinations:
- 1a) Community Association Managers International Certification Board (CAMICB)~~National Board of Certification for Community Association Managers (NBC-CAM)~~ Certified Manager of Community Associations (CMCA) examination; ~~or~~
 - 2b) Institute of Real Estate Management (IREM) Community Association Management Exam (COMEXM); ~~or Common Interest Developments: Managing Condominium Association Properties (CID201).~~
 - 3) An examination approved by the Department.

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- b) Pursuant to Section 1445.30(a)(3), a Supervising Community Association Manager applicant shall successfully complete and pass at least one of the following examinations:
- 1) Community Associations Institute (CAI) Professional Community Association Manager (PCAM);
 - 2) Institute of Real Estate Management (IREM) Certified Property Manager (CPM); or
 - 3) An examination approved by the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.60 Endorsement

- a) An applicant who is licensed/registered under the laws of another state or territory of the United States or a foreign country and who wishes to be licensed in Illinois as a Supervising Community Association Manager or a Community Association Manager shall file an application with the Department~~Division~~, on forms provided by the Department~~Division~~, that includes:
- 1) ~~The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination of this Part or the applicant possesses individual qualifications at the time of application that were substantially equivalent to the requirements then in force in this State.~~
 - 12) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed/registered and is currently licensed/registered, stating:
 - A) The time during which the applicant was licensed/registered;
 - B) Whether the file of the applicant contains any record of disciplinary actions taken or pending; and
 - C) Examinations taken and examination scores received; and

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- D) Any pre-license education requirements.
- 23) The required fee set forth in Section 1445.100(a)(1)(2).
- b) The Department shall examine each endorsement application submitted by an applicant licensed by another state or territory in the United States or a foreign country to determine whether the licensing/registration requirements and examination in that jurisdiction at the date of licensing/registration were substantially equivalent to the licensing requirements and examination of the Act and this Part or whether the applicant possesses individual qualifications at the time of the endorsement application that were substantially equivalent to the requirements of the Act and this Part.
- c) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.63 Continuing Education

- a) Continuing Education Credit Hour Requirements
- 1) Each Supervising Community Association Manager shall complete 18 credit hours of continuing education (CE) for each renewal period. Each Community Association Manager shall complete 12 credit hours of CE for each renewal period. However, each Community Association Manager shall complete 6 credit hours of CE for the August 31, 2015 renewal period.
- 2) Licensees who complete CE after the expiration of a license that has expired or been placed on inactive status for 5 years or less, as outlined in Section 1445.90(a), are eligible for approval of CE only upon payment of all required fees and completion of the necessary forms.

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- 3) An applicant receiving an initial license during the 90 days before the end of a renewal period shall complete the CE requirements provided in subsection (a)(1) prior to the expiration date printed on the initial license.
 - 4) Supervising Community Association Managers and Community Association Managers licensed in Illinois, but residing and/or practicing in other states, shall comply with the CE requirements set forth in this Section.
 - 5) The Department may conduct random audits to verify compliance with this Section.
- b) Approved Continuing Education
- 1) CE credit may be earned for verified attendance at, or participation in, a course offered by an approved CE provider that meets the requirements of:
 - A) Community Association Managers International Certification Board (CAMICB);
 - B) Community Associations Institute (CAI);
 - C) Apartment Building Owners and Managers Association (ABOMA);
 - D) Institute of Real Estate Management (IREM);
 - E) Association of Condominium, Townhouse and Homeowners Associations (ACTHA);
 - F) any Illinois chartered community college or university; or
 - G) any Illinois licensed education provider offering courses related to Section 1445.65.
 - 2) Courses not approved by an entity listed in subsection (b)(1) may be reviewed and approved for CE credit by the Board. The Department has the discretion to determine that CE coursework is improper or inadequate.

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- 3) CE credit may be earned for teaching a CE course. CE credit for teaching an approved CE course may only be earned one time per course during a renewal period. 50 minutes of teaching is equal to one credit hour of CE.
 - 4) All CE courses shall be a minimum of 2 hours.
 - 5) If licensees have earned CE credit in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application, along with a \$25 processing fee, within 90 days after completion of the CE course and prior to expiration of the license. The Board shall review and recommend approval or disapproval of the CE course provided the CE provider and CE course are substantially equivalent to those approved in Illinois.
 - 6) CE credit shall not be given for CE courses taken in Illinois from providers not pre-approved by the Department and as outlined in subsections (b)(1) and (2).
- c) Certification of Compliance with Continuing Education Requirements
- 1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b).
 - 2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant to provide proof of completed CE.
 - 3) If, during an audit or compliance review, the Department determines that a licensee may be deficient in complying with CE requirements, the Department will notify of the possible deficiency the licensee and, if applicable, the Supervising Community Association Manager of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to the Department evidence of compliance with CE requirements.

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- 4) If satisfactory evidence of compliance with CE requirements is submitted, the Department shall notify the licensee, by first class mail or email, that the licensee is in compliance.
- 5) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application but cannot submit satisfactory evidence of having been in compliance on the date the licensee made the certification, the licensee may, during the 60 day notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion of CE requirements must be accompanied by a non-refundable administrative fee of \$25 per CE credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Department shall notify the licensee and, if applicable, the Supervising Community Association Manager of the licensee, that the licensee is in compliance. Any evidence of credit hours submitted for post-certification completion of CE requirements and found satisfactory may not be used as credit for the next renewal's CE requirements.
- 6) If the licensee fails to submit satisfactory evidence of compliance with CE requirements within the 60 day notice period, the failure shall be evidence of a violation of Section 85 of the Act and the CE requirements of this Section. The Department shall send notice to the licensee of the violation indicating the commencement of disciplinary proceedings. If applicable, a copy of this notice shall also be sent to the Supervising Community Association Manager of the licensee.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.65 Curriculum for Continuing Education

- a) Continuing education courses shall consist of the following topics:
 - 1) State and federal laws relating to the operation of all types of community associations, governing documents and State laws relating to corporations, partnerships and nonprofit corporations;

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- 2) Preparation of community association budgets and community association accounts;
 - 3) Management, personnel matters, customer service and ethics;
 - 4) Maintenance operations;
 - 5) Insurance matters relating to community associations;
 - 6) Procedures for noticing and conducting community association meetings;
or
 - 7) Any legislative update to the Illinois Community Association Manager Licensing and Disciplinary Act.
- b) The course provider shall provide a certificate of completion to each student to prove compliance with the CE requirements.
- c) The additional 6 CE credit hours required by Section 1445.63 for the Supervising Community Association Manager license shall consist of topics listed in subsections (a)(1), (a)(2), (a)(3) and (a)(7).

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.70 Renewal

- a) Every Community Association Manager license~~The first renewal period for licensure issued under the Act shall be August 31, 2013. Thereafter, every registration issued under the Act~~ shall expire August 31 of odd-numbered years. The holder of a license may renew that license during the month preceding the expiration date by completing the renewal form, paying the required fee, fulfilling all necessary CE requirements and meeting any other requirements established for renewal.
- b) The first renewal for Supervising Community Association Manager licensure shall be August 31, 2017. Thereafter, every Supervising Community Association Manager license shall expire August 31 of odd-numbered years. The holder of a license may renew that license during the month preceding the expiration date by

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completing the renewal form, paying the required fee, fulfilling all necessary CE requirements and meeting any other requirements established for renewal. It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license. Practice on a non-renewed license shall be considered unlicensed practice and shall be subject to the disciplinary provisions of the Act.

- c) The first renewal for Community Association Manager Firm licensure shall be August 31, 2017. Thereafter, every Community Association Management Firm license shall expire August 31 of odd-numbered years. The holder of a license may renew that license during the month preceding the expiration date by completing the renewal form, paying the required fee and meeting any other requirements established for renewal.
- d) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.
- e) All Community Association Management Firms must maintain an active status/good standing with the appropriate office within the jurisdiction where it is registered or authorized to transact business (i.e., Secretary of State, etc.). A Community Association Management Firm must notify the Department within 48 hours and in writing of any change to its status/registration resulting in the inability to transact business (i.e., dissolved, etc.) in the jurisdiction in which it is registered or authorized.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.80 Inactive Status

- a) Licensed Supervising Community Association Managers, Community Association Managers and Community Association Management Firms who notify the Department~~Division~~, on forms provided by the Department~~Division~~, may place their licenses on inactive status and shall be excused from paying renewal fees until they notify the Department~~Division~~ in writing of the intention to resume active practice.

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- b) Any licensed Supervising Community Association Manager, Community Association Manager or Community Association Management Firm seeking restoration from inactive status shall do so in accordance with Section 1445.90.
- c) Any Supervising Community Association Manager, Community Association Manager or Community Association Management Firm whose license is on inactive status shall not use the title "licensed Supervising Community Association Manager", "licensed Community Association Manager" or "licensed Community Association Management Firm", and shall cease all community association management services in the State of Illinois. Any person violating this subsection shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.90 Restoration

- a) Any Supervising Community Association Manager or Community Association Manager whose license has expired or has been placed on inactive status for 5 years or less may have the license restored upon payment of \$50 plus all lapsed renewal fees as set forth in Section 1445.100 and must complete all CE requirements in Section 1445.63 for the renewal period immediately preceding the date of application for restoration.
- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms provided~~supplied~~ by the Department~~Division~~, together with the fee required by Section 1445.100 and proof of one of the following:
- 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice; or
 - 2) An affidavit attesting to military service as provided in Section 60(c) of the Act; or

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- 3) Proof of passage of ~~an~~the examination set forth in Section 1445.50 during the lapsed period of licensure or the period the license was the registration was lapsed or on inactive status.; ~~or~~
- 4) ~~Proof of re-certification within the past 5 years by any of the certification groups referenced in Section 1445.20(a)(2).~~
- c) Any Community Association Management Firm seeking restoration of a license that has been expired or placed on inactive status for 3 years or less must pay \$100 plus all lapsed fees to bring the license into compliance. Any Community Association Management Firm the license of which has expired or been placed on inactive status for more than 3 years must complete a new application, on forms provided by the Department, and pay a new application fee pursuant to Section 1445.100.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the ~~course work or~~ experience is questioned by the ~~Department~~Division because of a lack of information, discrepancies, ~~or~~ conflicts in information ~~given~~, or a need for clarification, the licensee seeking restoration shall ~~1) provide~~Provide information as may be necessary; ~~and/or~~
- 2) ~~Appear for an interview before the Division and/or Board, at the discretion of the Division, to explain the relevance or sufficiency, clarify information or address any discrepancies or conflicts in information.~~
- e) Practice on an expired or inoperative license shall be considered unlicensed practice and shall be subject to the disciplinary provisions of the Act.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.93 Supervision

- a) A licensee may perform activities as a licensee only for his or her Supervising Community Association Manager and/or Community Association Management Firm.
- b) A Supervising Community Association Manager shall exercise supervision over the activities of licensees and unlicensed assistants working in those offices

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supervised by the Supervising Community Association Manager. This supervision of activities includes, but is not limited to:

- 1) The implementation of, and communication to licensees of, office policies and procedures established by the Community Association Management Firm;
 - 2) Training of licensees or unlicensed assistants;
 - 3) Supervising those Association Accounts over which the Community Association Management Firm has delegated responsibility to the Supervising Community Association Manager in order to ensure compliance with the Association Accounts provisions of the Act, Section 1445.120 and this Part;
 - 4) Supervising all advertising, in any media, of any community association management service for which a license is required;
 - 5) Familiarizing supervised licensees with the requirements of federal and State laws and local ordinances relating to the practice of community association management; and
 - 6) Compliance with this Section for licensees and offices under his or her supervision.
- c) The Community Association Management Firm shall establish a written office policy and remain ultimately responsible for compliance with this Section. The Community Association Management Firm shall name and designate with the Department a Supervising Community Association Manager for every office.
- d) Any violation of the provisions of the Act on the part of any licensees employed by a Community Association Management Firm, or associated by written agreement with the Community Association Management Firm, or unlicensed employee of a Community Association Management Firm, shall not be cause for suspension or revocation of the license of the Community Association Management Firm or a Supervising Community Association Manager of the Community Association Management Firm, unless the Community Association Management Firm or Supervising Community Association Manager had knowledge of the violation of the Act. However, failure to provide an appropriate

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written office policy or failure to properly supervise shall be cause for discipline, including suspension or revocation, of the license of the Community Association Management Firm or Supervising Community Association Manager.

- e) All Community Association Management Firms have an ongoing duty to report to the Department within 48 hours and in writing any changes to that Community Association Management Firm's designated Supervising Community Association Managers or Community Association Managers.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.95 Supervising Community Association Manager Responsibilities

- a) Each Supervising Community Association Manager shall inform the Department in writing of the name and license number of all Supervising Community Association Managers and Community Association Managers employed by the Community Association Management Firm and the office each Supervising Community Association Manager is responsible for supervising.
- b) Upon written request from a sole proprietor or Community Association Management Firm within 15 days after the loss of a Supervising Community Association Manager who will not be replaced, or upon written request within 15 days after the death or disability of a sole proprietor, the Department may issue a written authorization to allow the continuing operation of a licensed Community Association Management Firm, provided that a Community Association Manager or representative under a duly executed power of attorney assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operations. No authorization shall be valid for more than 60 days unless extended by the Department for good cause and upon written request by an authorized representative of the sole proprietor or the Community Association Management Firm.
- c) All Supervising Community Association Managers shall notify the Department on business letterhead of any change of business address of the offices they manage within 3 days after any change. A license returned to the Department for this reason shall remain in good standing until a new license is issued and in the possession of the licensee.

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- d) The Department will honor the order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a deceased Supervising Community Association Manager or a Supervising Community Association Manager who has been adjudicated disabled, who was a sole proprietor, until the sole proprietorship or Community Association Management Firm is closed. However, the legal representative cannot actively engage in community association management services as defined in Section 10 of the Act.
- e) Within 90 days after the effective date of this Section, those licensees holding a Supervising Community Association Manager license and named and designated as a Supervising Community Association Manager with the Department shall indicate that status in any marketing or advertising that includes their name. Those licensees holding a Supervising Community Association Manager license and not named and designated as a Supervising Community Association Manager with the Department shall not represent or hold themselves out as a Supervising Community Association Manager, but only as a Community Association Manager.
- f) Within 90 days after the effective date of this Section, a licensee doing business as a sole proprietor must have a Supervising Community Association Manager license.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.100 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
- 1) The application fee for a ~~license as a~~ Supervising Community Association Manager or a Community Association Manager license is ~~\$200~~\$300. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the application for examination has been

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received and acknowledged by the ~~Department~~Division or the designated testing service, shall result in the forfeiture of the examination fee.

- 2) The application fee for a ~~license as a~~ Community Association Manager Firm license is \$200~~certified or licensed under the laws of another jurisdiction is \$300.~~
- b) ~~Licensure fee of \$300 required pursuant to the grandfather provisions of Section 1445.20.~~
- be) Renewal Fees
- 1) The renewal fee for a Supervising Community Association Manager or Community Association Manager license is \$175 for a 2 year license.
 - 2) The renewal fee for a Community Association Management Firm license is \$175 for a 2 year license.~~Renewal fees for the renewal of a Community Association Manager license shall be calculated at the rate of \$150 per year.~~
- cd) General Fees
- 1) The fee for the restoration of a Supervising Community Association Manager or Community Association Manager license that has been ~~on~~other than from inactive status or that has been expired for 5 years or less is \$50 plus payment of all lapsed renewal fees.
 - 2) The fee for the restoration of a Supervising Community Association Manager or Community Association Manager license that has been expired for more than 5 years is \$900.
 - 3) The fee for the restoration of a Community Association Management Firm license that has been expired for 3 years or less is \$100 plus payment of all lapsed renewal fees. To restore a Community Association Management Firm license that has been expired for more than 3 years, the Community Association Management Firm must show compliance with the requirements of Section 1445.90.~~The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of~~

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~~name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.~~

- 4) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$25. No fee is required for name and address changes on Department records when no duplicate license is issued.~~The fee for a certification of a licensee's record for any purpose is \$20.~~
- 5) The fee for a certification of a licensee's record for any purpose is \$25.~~The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.~~
- 6) The fee for a roster of ~~persons licensed as Community Association Managers~~licensees in this State shall be the actual cost of producing the roster.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.105 Fidelity Insurance

- a) The Supervising Community Association Managers, Community Association Managers and all owners, officers, directors, managers, members, partners and employees of the Community Association Management Firm shall be covered by fidelity insurance at all times during the length of the service agreement between the community association and Community Association Management Firm or Supervising Community Association Manager.
- b) Unless an agreement between the community association and the Supervising Community Association Manager or the Community Association Management Firm provides to the contrary, a community association may secure and pay for the fidelity insurance required by this Section. The Supervising Community Association Manager or Community Association Management Firm must be named as additional insured parties on the community association policy.

(Source: Added at 38 Ill. Reg. _____, effective _____)

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Section 1445.110 Unprofessional Conduct

The ~~Department~~~~Division~~ may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of dishonorable, unethical or unprofessional conduct (see Section 85 of the Act). Dishonorable, unethical or unprofessional conduct may include, but is not limited to, the following acts or practices:

- a) Failing to be knowledgeable about and comply with the applicable governing documents, policies and procedures of ~~a community~~~~the client~~ association.
- b) Knowingly misrepresenting material facts, making inaccurate statements, or acting in any fraudulent manner while representing ~~community~~~~client~~ associations.
- c) Providing legal advice to ~~community~~~~client~~ associations, or any of ~~its~~~~their~~ members, or otherwise engaging in the unlicensed practice of law.
- d) Failing to promptly disclose to ~~community~~~~client~~ associations any actual or potential conflicts of interest.
- e) Failing to act in a manner consistent with the licensee's fiduciary duty.
- f) Failing to conduct oneself in a professional manner at all times when acting in the scope of employment in accordance with the terms and conditions of the ~~service~~~~contractual~~ agreement between the community association and Community Association Management Firm or Supervising Community Association Manager and in accordance with all local, State and federal laws.
- g) Failing to maintain a duty of confidentiality to all current and former clients.
- ~~h) Failing to insure that homeowners receive timely notice as required by State statutes or legal documents.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 1445.120 Association Accounts

- a) Association Accounts

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- 1) "Association Accounts" means all accounts under the care and control of the Community Association Management Firm and the Supervising Community Association Manager or his or her designee that are deposited with the Community Association Management Firm and the Supervising Community Association Manager for the benefit of the community associations represented.
- 2) Supervising Community Association Managers and/or Community Association Management Firms who accept moneys shall maintain and deposit in an Association Account, separate and apart from personal or other business accounts, all community association moneys entrusted to them while acting as the Supervising Community Association Manager and/or Community Association Management Firm.
- 3) A Supervising Community Association Manager and/or Community Association Management Firm may maintain more than one Association Account.
- 4) Every Association Account shall be maintained at a federally insured depository unless otherwise directed in writing by the community association.
- 5) Commingling Prohibited
Each Supervising Community Association Manager and/or Community Association Management Firm shall deposit only Association Account funds received in connection with a community association in an Association Account. The Supervising Community Association Manager and/or Community Association Management Firm shall not deposit personal funds in an Association Account, except he or she may deposit from his or her own personal funds and keep in any Association Account an amount sufficient to avoid incurring service charges relating to the Association Account.
- 6) The Supervising Community Association Manager and/or Community Association Management Firm shall provide a receipt to the payor of any cash constituting Association Account funds and shall retain a copy of the receipt.

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- 7) Pursuant to Section 105 of the Act, the Department shall have the power to subpoena documents, books, records or other materials and to bring before it any person and to take testimony either orally, by written interrogatory or any combination thereof, in order to enforce this Section.
- b) Association Account Records
Each Supervising Community Association Manager who accepts community association funds shall maintain in his or her office or place of business a bookkeeping system in accordance with sound accounting principles. Without limiting the foregoing, the system shall consist of at least the following Association Account records:
- 1) Ledger
A ledger shall be maintained for each Association Account. The ledger shall show the chronological sequence in which funds are received and disbursed by the Supervising Community Association Manager and/or Community Association Management Firm.
- A) For funds received, the ledger shall include the date the funds were received, the name of the person or entity on whose behalf the funds were delivered, the check number and the amount delivered.
- B) For funds disbursed, the ledger shall include the date the funds were disbursed, the payee, the check number and the amount disbursed.
- C) A running balance shall be shown after each entry (receipt or disbursement).
- 2) Monthly Reconciliation Statement
Each Supervising Community Association Manager shall reconcile, within 10 days after receipt of the monthly bank statement, each Association Account except when there has been no transactional activity during the previous month. Reconciliation shall include a written work sheet comparing the balances as shown on the bank or savings and loan association statement and the ledger, respectively, in order to ensure agreement between the Association Account and the ledger entries with respect to the Association Account. Each reconciliation shall be kept for at least 5 years from the last day of the month covered by the reconciliation.

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- 3) If association funds are transferred from an Association Account to another account for disbursement, the Supervising Community Association Manager and/or Community Association Management Firm must maintain a copy of all records reflecting a disbursement from the other account.
- 4) Master Association Account Log
Each Supervising Community Association Manager and/or Community Association Management Firm shall maintain a Master Association Account Log identifying all Association Account numbers and the name and address of the bank where the Association Accounts are located. The Master Association Account Log must specifically include all bank account numbers opened for a community association even if account numbers fall under another umbrella account number.
- 5) A Supervising Community Association Manager and/or Community Association Management Firm or a third party vendor may employ a more sophisticated bookkeeping system based on sound accounting principles, including a system of electronic data processing equipment. However, any such system must contain or produce printed records containing the information required by this Section, although it need not be in the same format as provided for in this Section. Compliance with the bookkeeping duties remains the responsibility of the Supervising Community Association Manager and/or Community Association Management Firm. The Supervising Community Association Manager and/or Community Association Management Firm is ultimately responsible for the proper administration of the Association Accounts pursuant to this Section.
- 6) Pursuant to Section 85 of the Act, a Supervising Community Association Manager and/or Community Association Management Firm shall make available to the enforcement personnel of the Department all Association Account records and related documents maintained in connection with the practice of community association management services.
- 7) Each Supervising Community Association Manager and/or Community Association Management Firm shall institute a written office policy to ensure that the Community Association Management Firm deposits and maintains Association Account funds in compliance with this Section.

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Community Association Managers may not maintain Association Accounts.

- 8) Each Supervising Community Association Manager and/or Community Association Management Firm shall, at the time of the original application for licensure and at the time of renewal of licensure, file with the Department, on forms provided by the Department, the name of the recognized insured depositories in which each Association Account is maintained, the Association Account number and the names of the persons authorized to withdraw funds from those accounts, and shall, as a condition of licensure, consent on those forms to the examination and audit of all Association Accounts, notwithstanding whether the account is identified on the form, by the Department.
- 9) A new form shall be executed by the Supervising Community Association Manager and/or Community Association Management Firm and filed with the Department within 10 days after the time of a change of depository, method of doing business or persons authorized to make withdrawals. A new form shall also be executed each time a new Association Account is opened. However, a new form shall not be required each time a new Association Account is opened when the account falls under an umbrella account that has already been identified in a prior form. The identity of each of these individual Association Accounts, however, must be included in the Master Association Account Log pursuant to this Section.
- 10) Violations
Any licensee who violates any of the provisions of this Section may be deemed to have endangered the public interest pursuant to Section 85 of the Act and may be subject to discipline pursuant to Section 85 of the Act.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 1445.125 Audits of Association Accounts by Outside Auditors

- a) General Rule
The Department may cause audits of Association Accounts managed by Supervising Community Association Managers and/or Community Association Management Firms to be conducted by licensed certified public accountants as provided for in this Section.

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- b) The Department shall notify in writing the Supervising Community Association Manager and/or Community Association Management Firm responsible for the Association Accounts to be audited that an auditor has been retained to audit those Association Accounts, the identity of the auditor or auditing firm and the requirement that the Supervising Community Association Manager and/or Community Association Management Firm shall submit all pertinent records for audit within 30 days after receipt of the written notice.
- c) Procedures for Audit
The auditor or the Department shall contact the Supervising Community Association Manager and/or Community Association Management Firm responsible for the Association Accounts for the purpose of scheduling the audit of the Association Accounts. The Supervising Community Association Manager and/or Community Association Management Firm shall provide the records requested at the scheduled time and location or as otherwise agreed by the Supervising Community Association Manager and/or Community Association Management Firm and the auditor or the Department.
- d) Written Report
Any licensed certified public accountant performing an audit for the Department under the provisions of this Section and the Act shall provide a written report to the Department, with a copy to the Supervising Community Association Manager and/or Community Association Management Firm, detailing the findings of the auditor with specific reference to compliance with the Association Account requirements of this Section and the Act.
- e) Noncompliance and Cost of Audit
The Supervising Community Association Manager and/or the Community Association Management Firm shall be liable for the cost of the audit if an order is issued by the Director finding that Association Account funds were misappropriated by the Supervising Community Association Manager and/or Community Association Management Firm or his, her or its employees, independent contractors, agents or designees, or if the Supervising Community Association Manager and/or Community Association Management Firm or his, her or its employees, independent contractors, agents or designees did not comply with the requirements of the Act or this Part.

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- f) The Department shall have the discretion to determine whether an account constitutes an Association Account and whether a licensee has made reasonable efforts to provide Association Account records and/or access to the Department.
- g) A community association's failure to consent to an audit of any Association Accounts may be grounds for dismissal of a complaint against a licensee.
- h) Pursuant to Section 105 of the Act, the Department shall have the power to subpoena documents, books, records or other materials and to bring before it any person and to take testimony either orally, by written interrogatory or any combination thereof, in order to enforce this Section.

(Source: Added at 38 Ill. Reg. _____, effective _____)