

CHAPTER 468

MISCELLANEOUS PROFESSIONS AND OCCUPATIONS

PART VIII

COMMUNITY ASSOCIATION MANAGEMENT

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468.431 Definitions.--

(1) "Community association" means a residential homeowners' association in which membership is a condition of ownership of a unit in a planned unit development, or of a lot for a home or a mobile home, or of a townhouse, villa, condominium, cooperative, or other residential unit which is part of a residential development scheme and which is authorized to impose a fee which may become a lien on the parcel.

(2) "Community association management" means any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 50 units or have an annual budget or budgets in excess of \$100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association. A person who performs clerical or ministerial functions under the direct supervision and control of a licensed manager or who is charged only with performing the maintenance of a community association and who does not assist in any of the management services described in this subsection is not required to be licensed under this part.

(3) "Community association manager" means a person who is licensed pursuant to this part to perform community association management services.

(4) "Council" means the Regulatory Council of Community Association Managers.

(5) "Department" means the Department of Business and Professional Regulation.

History.--ss. 7, 14, ch. 87-343; s. 1, ch. 89-155; s. 4, ch. 91-429; s. 142, ch. 94-218; s. 1, ch. 94-350; s. 2, ch. 96-291.

468.4315 Regulatory Council of Community Association Managers.--

(1) The Regulatory Council of Community Association Managers is created within the department and shall consist of seven members appointed by the Governor and confirmed by the Senate.

(a) Five members of the council shall be licensed community association managers, one of whom shall be a community association manager employed by a timeshare managing entity as described in ss. 468.438 and 721.13, who have held an active license for 5 years. The remaining two council members shall be residents of this state and must not be or ever have been connected with the business of community association management.

(b) The Governor shall appoint members for terms of 4 years. Such members shall serve until their successors are appointed. Members' service on the council shall begin upon appointment and shall continue until their successors are appointed.

(2) The council may adopt rules relating to the licensure examination, continuing education requirements, continuing education providers, fees, and professional practice standards to assist the department in carrying out the duties and authorities conferred upon the department by this part.

(3) To the extent the council is authorized to exercise functions otherwise exercised by a board pursuant to chapter 455, the provisions of chapter 455 and s. 20.165 relating to regulatory boards shall apply, including, but not limited to, provisions relating to board rules and the accountability and liability of board members. All proceedings and actions of the council are subject to the provisions of chapter 120. In addition, the provisions of chapter 455 and s. 20.165 shall apply to the department in carrying out the duties and authorities conferred upon the department by this part.

History.--ss. 10, 14, ch. 87-343; s. 4, ch. 91-429; s. 3, ch. 94-350; s. 3, ch. 96-291; s. 87, ch. 98-166; s. 162, ch. 99-251; s. 2, ch. 99-350; s. 146, ch. 2000-160.

Note.--Former s. 468.434.

468.432 Licensure of community association managers; exceptions.--

(1) A person shall not manage or hold herself or himself out to the public as being able to manage a community association in this state unless she or he is licensed by the department in accordance with the provisions of this part. However, nothing in this part prohibits any person licensed in this state under any other law or court rule from engaging in the profession for which she or he is licensed.

(2) Nothing in this part prohibits a corporation, partnership, trust, association, or other like organization from engaging in the business of community association management without being licensed if it employs licensed natural persons in the direct provision of community association management services. Such corporation, partnership, trust, association, or other organization shall also file with the department a statement on a form approved by the department that it submits itself to the rules of the council and the department and the provisions of this part which the department deems applicable.

History.--ss. 8, 14, ch. 87-343; s. 2, ch. 89-155; s. 4, ch. 91-429; s. 4, ch. 96-291; s. 1114, ch. 97-103.

468.433 Licensure by examination.--

(1) A person desiring to be licensed as a community association manager shall apply to the department to take the licensure examination. Each applicant must file a complete set of fingerprints that have been taken by an authorized law enforcement officer, which set of fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the applicant.

(2) The department shall examine each applicant who is at least 18 years of age, who has successfully completed all prelicensure education requirements, and who the department certifies is of good moral character.

(a) Good moral character means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

(b) The department may refuse to certify an applicant only if:

1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a community association manager; and
2. The finding by the department of lack of good moral character is supported by clear and convincing evidence.

(c) When an applicant is found to be unqualified for a license because of a lack of good moral character, the department shall furnish the applicant a statement containing its findings, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(d) The council shall establish by rule the required amount of prelicensure education, which shall consist of not more than 24 hours of in-person instruction by a department-approved provider and which shall cover all areas of the examination specified in subsection (3). Such instruction shall be completed within 12 months prior to the date of the examination. Prelicensure education providers shall be considered continuing education providers for purposes of establishing provider approval fees. A licensee shall not be required to comply with the continuing education requirements of s. 468.4337 prior to the first license renewal. The department shall, by rule, set standards for exceptions to the requirement of in-person instruction in cases of hardship or disability.

(3) The council shall approve an examination for licensure. The examination must demonstrate that the applicant has a fundamental knowledge of state and federal laws relating to the operation of all types of community associations and state laws relating to corporations and

nonprofit corporations, proper preparation of community association budgets, proper procedures for noticing and conducting community association meetings, insurance matters relating to community associations, and management skills.

(4) The department shall issue a license to practice in this state as a community association manager to any applicant who successfully completes the examination in accordance with this section and pays the appropriate fee.

History.--ss. 9, 14, ch. 87-343; s. 3, ch. 89-155; s. 4, ch. 91-429; s. 2, ch. 94-350; s. 5, ch. 96-291; s. 19, ch. 2000-356.

468.4336 Renewal of license.--

(1) The department shall renew a license upon receipt of the renewal application and fee and upon proof of compliance with the continuing education requirements of s. 468.4337.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

History.--s. 6, ch. 96-291.

468.4337 Continuing education.--The department may not renew a license until the licensee submits proof that the licensee has completed the requisite hours of continuing education. No more than 10 hours of continuing education annually shall be required for renewal of a license. The number of hours, criteria, and course content shall be approved by the council by rule.

History.--s. 7, ch. 96-291.

468.4338 Reactivation; continuing education.--The council shall prescribe by rule continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license may not exceed 10 classroom hours for each year the license was inactive.

History.--s. 8, ch. 96-291.

468.435 Fees; establishment; disposition.--

(1) The council shall, by rule, establish fees for the described purposes and within the ranges specified in this section:

(a) Application fee: not less than \$25, or more than \$50.

(b) Examination fee: not less than \$25, or more than \$100.

(c) Initial license fee: not less than \$25, or more than \$100.

(d) Renewal of license fee: not less than \$25, or more than \$100.

(e) Delinquent license fee: not less than \$25, or more than \$50.

(f) Inactive license fee: not less than \$10, or more than \$25.

(2) Until the council adopts rules establishing fees under subsection (1), the lower amount in each range shall apply.

(3) Fees collected under this section shall be deposited to the credit of the Professional Regulation Trust Fund.

(4) The council shall establish fees that are adequate to fund the cost to implement the provisions of this part. Fees shall be based on the department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of community association managers.

History.--ss. 11, 14, ch. 87-343; s. 4, ch. 91-429; s. 9, ch. 96-291.

468.436 Disciplinary proceedings.--

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

- (a) Violation of any provision of s. 455.227(1).
- (b)1. Violation of any provision of this part.
- 2. Violation of any lawful order or rule rendered or adopted by the department or the council.
- 3. Being convicted of or pleading nolo contendere to a felony in any court in the United States.
- 4. Obtaining a license or certification or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.
- 5. Committing acts of gross misconduct or gross negligence in connection with the profession.

(2) The council shall specify by rule the acts or omissions that constitute a violation of subsection (1).

(3) When the department finds any community association manager guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

- (a) Denial of an application for licensure.
- (b) Revocation or suspension of a license.
- (c) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.
- (d) Issuance of a reprimand.
- (e) Placement of the community association manager on probation for a period of time and subject to such conditions as the department specifies.
- (f) Restriction of the authorized scope of practice by the community association manager.

(4) The department shall reissue the license of a disciplined community association manager upon certification by the department that the disciplined person has complied with all of the terms and conditions set forth in the final order.

History.--ss. 12, 14, ch. 87-343; s. 4, ch. 89-155; s. 4, ch. 91-429; s. 4, ch. 94-350; s. 10, ch. 96-291.

468.4365 Availability of disciplinary records and proceedings.--Notwithstanding s. 455.225, any complaint or record maintained by the Department of Business and Professional Regulation pursuant to the discipline of a licensed community association manager and any proceeding held by the department to discipline a licensed community association manager shall remain open and available to the public.

History.--s. 11, ch. 96-291.

468.437 Penalties.--Any person who violates any of the provisions of this part shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--ss. 13, 14, ch. 87-343; s. 4, ch. 91-429.

468.438 Timeshare management firms.--

(1) The provisions of this section apply only to community association management performed by a management firm acting as managing entity of a timeshare plan pursuant to chapter 721.

(2) A timeshare management firm shall only be required to employ at least one individual licensed under this part at each noncontiguous geographic location at which the management firm provides community association management. No other person providing community association management on behalf of such management firms shall be required to hold a license pursuant to this part, provided that any community association management provided pursuant to this section must be performed under the direct supervision and control of a licensed community association manager. A community association manager licensed pursuant to this part and employed by a timeshare management firm pursuant to this section assumes responsibility for all community association management performed by unlicensed persons employed by the timeshare management firm.

History.--s. 6, ch. 94-350