

1 apartments, or lots in a planned community or subdivision subject to a
2 uniform scheme of restrictive covenants, in which owner membership
3 is made mandatory by covenant, contract, or deed and which is
4 authorized to collect dues, assessments, or other payments from owner
5 members.

6 (4) 'Community association manager' means any person who, for a
7 valuable consideration or the expectation thereof, performs any of the
8 following acts or services for a community association:

9 a. Acts with the authority of a community association in its
10 business, legal, financial, or other transactions with association
11 members and nonmembers;

12 b. Executes the resolutions and decisions of the government of a
13 community association or, with the authority of the association,
14 enforces the rights of the association secured by statute,
15 contract, covenant, rule, or bylaw;

16 c. Collects, disburses, or otherwise exercises dominion or control
17 over money or other property belonging to a community
18 association;

19 d. Prepares budgets, financial statements, or other financial reports
20 for a community association;

21 e. Arranges, conducts, or coordinates meetings of a community
22 association or the governing body of a community association;

23 f. Negotiates contracts or otherwise coordinates or arranges for
24 services or the purchase of property and goods for or on behalf
25 of a community association; or

26 g. Offers or solicits to perform any of the acts or services in sub-
27 subdivisions a. through f. of this subdivision on behalf of a
28 community association.

29 (5) 'License' means a certificate issued by the Board recognizing the
30 person named therein as having met the requirements to provide
31 community association management as defined in this Article.

32 (6) 'Licensee' means a person who has been issued a license under this
33 Article.

34 **"§ 93A-88. License required.**

35 (a) On or after October 1, 2010, it shall be unlawful for any person in this State
36 to act as a community association manager, directly or indirectly engage in the business
37 of community association management, hold himself or herself out to be a community
38 association manager, or use the title 'Licensed Community Association Manager' or
39 'Community Association Manager' without first obtaining a license from the Board as
40 provided in this Article.

41 (b) The Board may issue a license to provide community association
42 management to an individual. The Board shall not issue a license to provide community
43 association management to a partnership, association, corporation, limited liability
44 company, or other business entity. However, a licensed community association manager

1 may perform community association management for or on behalf of a partnership,
2 association, corporation, limited liability company, or other business entity, conduct
3 business as a business entity, or enter into and enforce contracts as a business entity.

4 **"§ 93A-89. Exemptions.**

5 The provisions of this Article shall not apply to:

- 6 (1) An officer or member of a community association who, for no
7 consideration or expectation thereof, performs the acts or services of a
8 community association manager.
- 9 (2) The acts or services of an attorney-at-law who is engaged to represent
10 a community association or community association manager in any
11 business that constitutes the practice of law.
- 12 (3) The acts or services of a real estate broker hired by a community
13 association to sell or rent real property belonging to the association.
- 14 (4) A trustee in bankruptcy, court-appointed receiver, or any other person
15 acting under the express authority of an order issued by a court of
16 competent jurisdiction.
- 17 (5) The acts or services of a certified public accountant acting solely in the
18 capacity of a certified public accountant.
- 19 (6) A person who is the regular, salaried employee of a licensed
20 community association manager or an entity lawfully engaged in
21 community association management while performing clerical or
22 ministerial functions under the direction and control of a licensed
23 community association manager.

24 **"§ 93A-90. North Carolina Licensure Board for Community Association**
25 **Managers.**

26 (a) Membership. – The North Carolina Licensure Board for Community
27 Association Managers is established. The Board shall consist of seven members
28 appointed as follows:

- 29 (1) Four community association managers, two of whom shall be
30 appointed by the General Assembly, upon the recommendation of the
31 President Pro Tempore of the Senate, one of whom shall be appointed
32 by the General Assembly, upon the recommendation of the Speaker of
33 the House of Representatives, and one of whom shall be appointed by
34 the Governor.
- 35 (2) A homebuilder appointed by the Governor, upon the recommendation
36 of the North Carolina Home Builders Association.
- 37 (3) A licensed real estate broker appointed by the Governor, upon the
38 recommendation of the North Carolina Association of Realtors.
- 39 (4) A public member who is not a professional in any of the categories in
40 subdivisions (1) through (3) of this subsection, appointed by the
41 General Assembly, upon the recommendation of the Speaker of the
42 House of Representatives.

43 Members of the Board shall be citizens of the United States and residents of this State.

1 (b) Terms. – Members of the Board shall be appointed for four-year staggered
2 terms. Each Board member shall hold office until July 1 of the year in which the Board
3 member's respective term expires and until his or her successor is appointed and
4 qualified. No member may serve more than two consecutive full terms. Appointments
5 made by the General Assembly shall be made in accordance with G.S. 120-121.

6 The initial Board members shall be appointed before October 1, 2007. Of the
7 members initially appointed, the community association manager appointed by the
8 Governor shall serve a one-year term. The community association manager appointed
9 by the General Assembly, upon the recommendation of the Speaker of the House of
10 Representatives, and the licensed real estate broker shall serve two-year terms. One
11 community association manager appointed by the General Assembly, upon the
12 recommendation of the President Pro Tempore of the Senate, and the homebuilder shall
13 serve three-year terms. The remaining community association manager appointed by the
14 General Assembly, upon the recommendation of the President Pro Tempore of the
15 Senate, and the public member shall serve four-year terms.

16 Upon the expiration of the terms of the initial Board members, members shall be
17 appointed by the appointing authorities designated in subdivisions (1) through (4) of
18 subsection (a) of this section for a term of four years and shall serve until a successor is
19 appointed.

20 (c) Vacancies. – Any vacancy shall be filled by the authority originally filling
21 that position. Appointees to fill vacancies shall serve the remainder of the unexpired
22 term and until their successors have been duly appointed and qualified.

23 (d) Removal. – The Board may remove any of its members for neglect of duty,
24 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
25 in his or her capacity as a licensed community association manager shall be disqualified
26 from participating in the official business of the Board until the charges have been
27 resolved.

28 (e) Compensation. – Each member of the Board shall receive per diem and
29 reimbursement for travel and subsistence as provided in G.S. 93B-5.

30 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other
31 officers deemed necessary by the Board to carry out the purposes of this Article. All
32 officers shall be elected annually by the Board for one-year terms and shall serve until
33 their successors are elected and qualified. The chair of the Board shall be a licensed
34 community association manager.

35 (g) Meetings. – The Board shall hold its first meeting within 30 days after the
36 appointment of its members and shall hold at least two meetings each year to conduct
37 business and to review the standards and rules previously adopted by the Board. The
38 Board shall establish the procedures for calling, holding, and conducting regular and
39 special meetings. A majority of Board members constitutes a quorum.

40 **"§ 93A-91. Powers and duties of the Board.**

41 The Board has the power and duty to:

42 (1) Administer this Article.

43 (2) Issue interpretations of this Article.

- 1 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
2 provisions of this Article.
- 3 (4) Determine the qualifications and fitness of applicants for licensure and
4 license renewal.
- 5 (5) Establish an examination and approve educational curricula for
6 persons seeking licensure under this Article.
- 7 (6) Adopt and publish rules governing the ethics and standards of practice
8 for persons licensed as community association managers and to create
9 educational programs, books, and materials for licensees and the
10 general public concerning community associations, their organization
11 and proper management, and the rights of members.
- 12 (7) Issue, renew, deny, suspend, and revoke licenses and investigate and
13 discipline licensees as provided by this Article.
- 14 (8) Conduct investigations, subpoena individuals and records, and do all
15 other things necessary and proper to enforce this Article and discipline
16 persons licensed under this Article.
- 17 (9) Employ and discharge an executive director and other professional,
18 clerical, investigative, and special personnel and to set the
19 compensation and benefits for those persons.
- 20 (10) Purchase or rent office space, equipment, and supplies necessary to
21 carry out the provisions of this Chapter.
- 22 (11) Adopt a seal by which it shall authenticate its proceedings, official
23 documents, and licenses.
- 24 (12) Conduct administrative hearings in accordance with Article 3A of
25 Chapter 150B of the General Statutes.
- 26 (13) Establish fees as allowed by the Article.
- 27 (14) Publish and make available upon request the licensure standards
28 prescribed under this Article and all rules adopted by the Board.
- 29 (15) Request and receive the assistance of State educational institutions or
30 other State agencies.
- 31 (16) Establish continuing education requirements for persons licensed
32 under this Article.
- 33 (17) Call upon the Attorney General to provide legal counsel and
34 representation to the Board or, upon the approval of the Attorney
35 General, to hire another attorney to represent the Board, provided that
36 the cost of legal representation is borne by the Board.

37 **"§ 93A-92. Requirements for licensure; denial of licensure.**

38 (a) To be licensed as a community association manager, an applicant shall do all
39 of the following:

- 40 (1) Submit a completed application to the Board upon a form provided by
41 the Board.
- 42 (2) Pass a licensing examination prescribed by the Board or present
43 evidence of one of the following:

- 1 a. Successful completion of the Certified Manager of Community
2 Association Certification Program administered by the National
3 Board of Certification for Community Association Managers;
4 b. Attainment of the Certified Property Manager designation of
5 the Institute of Real Estate Management Division of the
6 National Association of Realtors;
7 c. Successful completion of any other program of education
8 which, in the discretion of the Board, is equivalent to the
9 programs described in sub-subdivisions a. and b. of this
10 subdivisi-on; or
11 d. Possession of a valid license issued by another state or any
12 political territory or jurisdiction acceptable to the Board if in the
13 Board's opinion the requirements for that licensure are
14 substantially the same as the requirements for licensure under
15 this Article.

16 (3) Produce evidence of coverage by a fidelity bond in accordance with
17 G.S. 93A-93.

18 (4) Affirmatively demonstrate to the Board that the applicant possesses
19 good moral character and the honesty, truthfulness, and integrity
20 necessary to protect the interests of the public and promote public
21 confidence in licensed community association managers.

22 (5) Pay the applicable fees.

23 (b) If the Board finds that an applicant has not demonstrated to the Board that the
24 applicant possesses the character and fitness for licensure, the Board shall defer action
25 on his or her application and shall notify the applicant in writing by first-class mail
26 directed to the address provided by the applicant in his or her application. Within 60
27 days following the mailing of the notice, the applicant may request a hearing before the
28 Board. The proceedings before the Board shall be governed by Article 3A of Chapter
29 150B of the General Statutes, and at the hearing the applicant shall have the burden of
30 demonstrating his or her good character and fitness for licensure. If the applicant does
31 not make a timely request for a hearing, the application shall be deemed denied.

32 "**§ 93A-93. Fidelity bonds; segregation of accounts.**

33 (a) Every community association manager engaged in community association
34 management shall at all times be covered by a fidelity bond or insurance policy
35 complying with the provisions of this section.

36 (b) A fidelity bond required by this section shall be in the amount of twenty
37 thousand dollars (\$20,000), and shall:

38 (1) Be written by an insurance company authorized to write fidelity bonds
39 in this State;

40 (2) Cover the community association manager and all employees and
41 protect all of the community association funds in the custody of the
42 community association manager or community association employees
43 acting under the community association manager's supervision;

(3) Provide that the insurance company issuing the bond may not cancel, substantially modify, or refuse to renew the bond without giving 30 days' prior written notice to the Board, except in the case of nonpayment of premiums, in which case 10 days' prior written notice shall be given to the Board; and

(4) Contain any other provisions as may be required by the Board.

(c) A licensee shall furnish the Board proof of required bond coverage before engaging in community association management activities and upon license renewal if the licensee continues to engage in community association management activities.

(d) The fidelity bond may be issued to an individual licensee naming the licensee as the insured party or may be issued to a community association management firm naming the firm, all affiliated licensees, and others as insured parties.

(e) A community association manager with custody, dominion, or control of money belonging to a community association or money belonging to a member of a community association shall:

(1) Safeguard and account for the money promptly and accurately;

(2) Promptly deposit the money into federally insured bank accounts in a bank lawfully doing business in North Carolina or in a federally chartered bank that consents to the jurisdiction of the Board for the examination of its records necessary to enforce this Article;

(3) Segregate the money in an account or accounts used exclusively for the deposit and maintenance of funds belonging only to one association and not commingle the money belonging to one association with money belonging to another association, the manager, or another person or entity;

(4) Obtain written authorization if any interest or other income earned by the money is to be paid to any person or party other than the association or member to whom the money belongs;

(5) Create and maintain books and records sufficient to demonstrate compliance with the provisions of this section and the rules adopted by the Board; and

(6) Upon depositing the money as provided in this subsection, expend, remit, or invest the money as directed by the association to whom the money belongs and provide an accurate account thereof.

§ 93A-94. Fees; subsequent application.

(a) The Board may impose the following fees that do not exceed the amounts set forth in this subsection:

(1)	Application for community association manager license	\$25.00
(2)	Community association manager examination	75.00
(3)	Issuance of license	150.00
(4)	License renewal	100.00
(5)	Late renewal	25.00
(6)	Application for course approval	150.00
(7)	Course approval renewal	75.00

- 1 (8) Course fee, per credit hour per licensee 5.00
- 2 (9) Credit for unapproved continuing education course 50.00
- 3 (10) Registration of community association 50.00
- 4 (11) Copies of Board rules or licensure standards shall be the cost of
5 printing and mailing.

6 (b) An individual who applied for a license as a community association manager
7 and failed the community association manager examination is not required to pay an
8 additional application fee if the individual submits another application for a license as a
9 community association manager within six months following the submission of the
10 individual's first application. However, the individual shall pay the examination fee to
11 be eligible to take the examination again.

12 **"§ 93A-95. License renewal; inactive license; lapsed license.**

13 (a) Renewal. – A license issued under this Article expires on September 30 of
14 each year. A license may be renewed by filing an application for renewal according to
15 procedures established by the Board and paying the required renewal fee. The Board
16 shall renew the license of a person who files an application for renewal, pays the
17 required renewal fee, and has fulfilled the continuing education requirements set by the
18 Board. If the Board imposes a continuing education requirement as a condition of
19 renewing a license, the Board shall reasonably ensure that the courses needed to fulfill
20 the requirement are available.

21 (b) Late Renewal. – The Board may provide for the late renewal of a license
22 upon the payment of a late fee, but no late renewal of a license may be granted more
23 than five years after the license expires.

24 (c) Inactive License. – A licensed community association manager may apply to
25 the Board to be placed on inactive status. An applicant for inactive status shall follow
26 the procedure established by the Board. A licensed community association manager
27 who is granted inactive status is not subject to the license renewal requirements during
28 the period the license holder remains on inactive status. A community association
29 manager on inactive status may apply to the Board to be reinstated to active status at
30 any time. The Board may set conditions for reinstatement to active status. A community
31 association manager on inactive status shall not perform any act or service for which
32 licensure is required.

33 **"§ 93A-96. Continuing education.**

34 (a) Requirements. – The Board may establish programs of continuing education
35 for licensees under this Article. A licensee subject to a program under this section shall
36 present evidence to the Board upon renewing the license, and every renewal thereafter,
37 that during the 12 months preceding the annual license expiration date the licensee has
38 completed the required number of classroom hours of instruction in courses approved
39 by the Board. The Board shall determine the number of hours of continuing education a
40 licensee is required to complete continuing education annually. However, the total
41 number of credit hours shall not exceed eight credit hours. No member of the Board
42 shall provide or sponsor a continuing education course under this section while that
43 person is serving on the Board.

1 **(b) Fees.** – The Board may establish a nonrefundable course application fee to be
2 charged to a course sponsor for the review and approval of a proposed continuing
3 education course. Approval of a continuing education course shall be renewed annually.
4 The Board may also require a course sponsor to pay a fee for each licensee completing
5 an approved continuing education course conducted by the sponsor.

6 **(c) Credit for Unapproved Course.** – The Board may award continuing education
7 credit for an unapproved course or related educational activity. The Board may
8 prescribe procedures for a licensee to submit information on an unapproved course or
9 related educational activity for continuing education credit. The Board may charge a fee
10 to the licensee for each unapproved course or activity submitted.

11 **(d) Extension of Time.** – The Board may, for good cause shown, grant extensions
12 of time to licensees to comply with the requirements of this section. Any licensee who,
13 after obtaining an extension under this subsection, offers evidence satisfactory to the
14 Board that the licensee has satisfactorily completed the required continuing education
15 courses, is in compliance with this section.

16 **(e) Rules.** – The Board may adopt rules regarding continuing education
17 requirements, including rules that govern:

18 **(1)** The content and subject matter of continuing education courses.

19 **(2)** The criteria, standards, and procedures for the approval of courses,
20 course sponsors, and course instructors.

21 **(3)** The methods of instruction.

22 **(4)** The computation of course credit.

23 **(5)** The ability to carry forward course credit from one year to another.

24 **(6)** The waiver of or variance from the continuing education requirement
25 for hardship or other reasons.

26 **(7)** The procedures for compliance and sanctions for noncompliance.

27 **§ 93A-97. Registration of community associations.**

28 **(a)** On or before January 1 of each year every community association whose
29 membership includes the owners of 20 or more residential condominiums, townhouses,
30 apartments, or lots or any combination thereof shall register the association with the
31 Board and shall provide the Board with information about the association, including the
32 name and address of the association, the county where the property is located, the name
33 and address of the community association's manager, and any other information the
34 Board may require pursuant to rules adopted by the Board. Registration is also required
35 of any community association whose constituent parts include other community
36 associations or organizations whose membership includes the owners of fewer than 20
37 residential condominiums, townhouses, apartments, or lots, but in the aggregate
38 includes the owners of 20 or more properties or interests. The Board may charge each
39 affected association an annual registration fee not to exceed fifty dollars (\$50.00).

40 **(b)** In the event an association required to register fails to register, the association
41 shall not sue in court or otherwise pursue any legal remedy available to it until the
42 association has registered with the Board, including the payment of any delinquent
43 registration fees. The Board shall publish a directory of registered community

1 associations and registration fees, and the Board shall use the fees only for the
2 administration and enforcement of this Article.

3 **"§ 93A-98. Disciplinary action by the Board.**

4 (a) The Board shall have the authority to take disciplinary action. Upon its own
5 initiative or upon the complaint of any person, the Board may investigate the conduct of
6 a licensed community association manager or any other person who acts or assumes to
7 act in the capacity of a licensed community association manager. The Board may
8 suspend or revoke a license issued under this Article or reprimand a licensee if,
9 following a hearing, the Board finds that the licensee has:

- 10 (1) Obtained a license by means of fraud, deceit, or misrepresentation.
- 11 (2) Engaged in gross negligence or incompetence as a community
12 association manager.
- 13 (3) Engaged in any act or service for which a license is required with a
14 lapsed or inactive license.
- 15 (4) Made a willful misrepresentation of material fact.
- 16 (5) Failed within a reasonable time to account for or remit money
17 belonging to a community association or another person coming into
18 the community association manager's possession in his or her capacity
19 as a community association manager.
- 20 (6) Commingled money belonging to a community association with the
21 community association manager's own or other money or failed to
22 deposit, maintain, or safeguard the money of a community association
23 as required by G.S. 93A-93(e).
- 24 (7) Been adjudged legally incompetent.
- 25 (8) Paid or offered to pay a valuable consideration to any person for acts
26 or services performed in violation of this Article.
- 27 (9) Failed to reasonably supervise an employee to prevent a violation of
28 this Article.
- 29 (10) Engaged in any other conduct that is dishonest or fraudulent.
- 30 (11) Violated any rule adopted by the Board or any provision of this
31 Article.

32 (b) The Board may also suspend or revoke the license issued to a community
33 association manager when the licensee has been convicted in any court of competent
34 jurisdiction in this State, another state, or the United States of the offenses of fraud,
35 embezzlement, larceny, false pretenses, forgery, conspiracy, or any other offense
36 involving dishonesty, breach of trust, or moral turpitude.

37 (c) In any case in which the Board may take disciplinary action authorized by
38 this section, the Board may also impose reasonable conditions, restrictions, limitations,
39 and probation upon the licensee.

40 (d) Hearings held pursuant to this section shall be governed by the provisions of
41 Article 3A of Chapter 150B of the General Statutes.

42 (e) The Board shall have authority to issue subpoenas in aid of its authority to
43 compel the testimony of witnesses and to require any person or entity to produce
44 documents for examination and copying by the Board's representatives. Subpoenas shall

1 be signed by the Board Chairman, Executive Director, or legal counsel. Upon written
2 request, the Board shall revoke a subpoena upon a showing that the subpoena does not
3 describe the evidence sought with reasonable particularity, the evidence sought by the
4 subpoena does not relate to a matter within the authority of the Board, or compliance
5 with the subpoena is unreasonably burdensome. If any person should fail to comply
6 with a subpoena issued by the Board, the Board may apply to the Superior Court of
7 Wake County or any county where the subpoenaed person resides or does business for
8 an order to compel the person to comply with a subpoena or to show cause why the
9 subpoenaed person should not be held in contempt. The court may impose punishment
10 for failure to comply with the Board's subpoena in the same manner as if the subpoena
11 had been issued under the court's own authority. The Board shall be exempt from the
12 provisions of Chapter 53B of the General Statutes when the subpoena seeks the
13 production of records of money belonging to a community association or association
14 member held by a financial institution.

15 **"§ 93A-99. License is property of the Board; display of license; report address**
16 **change.**

17 (a) A license issued by the Board is the property of the Board. If the Board
18 suspends or revokes a license issued by the Board, the community association manager
19 to whom the license is issued shall return the license to the Board upon demand.

20 (b) A community association manager licensed by the Board shall display the
21 license in a manner prescribed by the Board. A community association manager whose
22 address changes shall report the change to the Board.

23 **"§ 93A-100. Records.**

24 All persons licensed under this Article shall maintain full and accurate records of
25 business engaged in pursuant to their licenses. Records shall include the written, signed
26 contract, and the written report required by the standards of practice established by the
27 Board. Licensees shall retain records no less than three years. Licensees shall furnish
28 their records to the Board on demand without prior notice.

29 **"§ 93A-101. Violation a misdemeanor.**

30 A person who violates any provision of this Article is guilty of a Class 2
31 misdemeanor. Each unlawful act or practice constitutes a distinct and separate offense.

32 **"§ 93A-102. Injunctions.**

33 The Board may apply to any appropriate court for an order enjoining violations of
34 this Article. Upon a showing by the Board that any person has violated or is about to
35 violate this Article, the court may grant an injunction or a restraining order or take other
36 appropriate action."

37 **SECTION 2.** G.S. 93A-6(a)(12) reads as rewritten:

38 "(a) The Commission has power to take disciplinary action. Upon its own
39 initiative, or on the complaint of any person, the Commission may investigate the
40 actions of any person or entity licensed under this Chapter, or any other person or entity
41 who shall assume to act in such capacity. If the Commission finds probable cause that a
42 licensee has violated any of the provisions of this Chapter, the Commission may hold a
43 hearing on the allegations of misconduct.

1 The Commission has power to suspend or revoke at any time a license issued under
2 the provisions of this Chapter, or to reprimand or censure any licensee, if, following a
3 hearing, the Commission adjudges the licensee to be guilty of:

4 ...

5 (12) Commingling the money or other property of his or her principals with
6 his or her own or failure to maintain and deposit in a trust or escrow
7 account in an insured bank or savings and loan association in North
8 Carolina all money received by him or her as a real estate licensee
9 acting in that capacity, or an escrow agent, or the custodian or manager
10 of the funds of another person or entity which relate to or concern that
11 person's or entity's interest or investment in real property, provided,
12 these accounts shall not bear interest unless the principals authorize in
13 writing the deposit be made in an interest bearing account and also
14 provide for the disbursement of the interest accrued. However, a real
15 estate broker who is also a licensed community association manager
16 shall not be subject to disciplinary action by the Commission for
17 handling and accounting for money belonging to a community
18 association in compliance with Article 6 of Chapter 93A of the
19 General Statutes.

20"

21 **SECTION 3.** Any person who submits proof to the Board that the person
22 has been actively engaged in business as a community association manager for
23 compensation in this State for at least three consecutive years before the effective date
24 of this act and pays the required fee for the issuance of a license shall be licensed
25 without having to satisfy the requirements of G.S. 93A-92, enacted by Section 1 of this
26 act. All persons who do not make application to the Board within one year of the
27 effective date of this act shall be required to complete all requirements prescribed by the
28 Board and to otherwise comply with the provisions of G.S. 93A-92.

29 **SECTION 4.** This act is effective when it becomes law.