

1989

## Session Law 89-155

Florida Senate & House of Representatives

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**S 961 GENERAL BILL/CS by Regulated Industries; Dudley (Similar CS/H 828)**

**Community Association Managers**; provides for licensure & certification of such managers; provides requirements for certification in a classification; provides for enforcement of Community Association Management provisions by Fla. Land Sales, Condos, & Mobile Homes Div. of Business Reg. Dept.; provides for investigations & enforcement proceedings; provides civil penalty, etc. Amends 468.431-.433,.436. Effective Date: 10/01/89.

04/04/89 SENATE Filed

04/14/89 SENATE Introduced, referred to Regulated Industries; Governmental Operations -SJ 140

04/21/89 SENATE On Committee agenda—Regulated Industries, 04/25/89, 1:00 pm, Room-H-(428)

04/25/89 SENATE Comm. Report: CS by Regulated Industries -SJ 242

04/28/89 SENATE CS read first time -SJ 245; Now in Governmental Operations -SJ 242

05/11/89 SENATE On Committee agenda—Governmental Operations, 05/17/89, 9:00 am, Room-H-(428)

05/12/89 SENATE Extension of time granted Committee Governmental Operations

05/17/89 SENATE Comm. Report: Favorable by Governmental Operations, placed on Calendar -SJ 380

05/25/89 SENATE Placed on Special Order Calendar -SJ 449; CS passed; YEAS 38 NAYS 0 -SJ 463

05/26/89 HOUSE In Messages

06/02/89 HOUSE Received, placed on Calendar; Read second time; Read third time; CS passed; YEAS 112 NAYS 1 -HJ 1156

06/02/89 Ordered enrolled -SJ 1406

06/12/89 Signed by Officers and presented to Governor

06/27/89 Approved by Governor; Chapter No. 89-155

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>George</u>	<u>Skelton</u>	1. <u>RI</u>	<u>Fav/CS</u>
2. <u>Hosack</u>	<u>Stengle</u>	2. <u>GO</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Community Association Managers

BILL NO. AND SPONSOR:

CS/SB 961 by  
Regulated Industries and  
Senator Dudley

I. SUMMARY:

A. Present Situation:

Part VIII of Chapter 468, F.S., which provides for certification of community association managers by the Department of Business Regulation, was enacted in 1987. The program is managed by the Division of Land Sales, Condominiums, and Mobile Homes of the department. Approximately 3500 managers are currently certified under the provisions of the law.

A "community association" is defined as a residential homeowners association in which membership is a condition of ownership, and the residential development is authorized to impose a fee which may become a lien on the residence. The law specifies that community management services include controlling or disbursing funds, preparing budgets or other financial documents, assisting in association meetings, coordinating maintenance, and providing other day-to-day services involved in the operation of a community association.

A community association manager is a person who performs management services for remuneration to associations of more than 50 units, or to associations that have an annual budget of more than \$100,000. Persons who perform such services are required to be certified by the department. To be eligible for certification as a community association manager, an applicant must be of good moral character, and must pass an examination which demonstrates a fundamental knowledge of relevant laws and management skills. Evidence of 10 hours of continuing education is required for certification renewal.

The Department of Business Regulation is responsible for evaluating applicants, granting or revoking certificates, and investigating persons who violate the provisions of the act. Application and examination fees required to be paid to the department are deposited into the Florida Condominiums Trust Fund. Section 468.436, F.S., provides that the department may suspend or revoke a certificate for violations of the act. Persons who violate the act are guilty of a misdemeanor of the second degree.

According to the Department of Business Regulation, clarification is needed for effective implementation of the licensing provisions for community managers. The inclusion of routine maintenance and other day-to-day services under the definition of management services has resulted in confusion as to whether persons who manage the physical grounds or perform other routine services must be licensed. In addition, the current licensing requirements do not distinguish areas of expertise. The department also believes that the law does not

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provide sufficient enforcement authority for punishing violators of the act, both licensed and unlicensed.

**B. Effect of Proposed Changes:**

Part VII of ch. 468, F.S., pertaining to community association management, would be amended. The definition of "community association management" would include providing management services to multiple community associations. Individuals who perform only clerical, ministerial, or maintenance functions for community associations, but do not assist in other management services, would be exempt from the licensure requirements for community association managers.

The Department of Business Regulation would be authorized to establish specialized categories of certification for licensed managers in areas established by rule. Criteria for certification in a specialized classification would include that the community manager be licensed for at least 2 years, and have completed continuing education courses in the area of specialization.

The department would be granted additional enforcement powers for the licensure of community association managers. The Division of Land Sales, Condominiums, and Mobile Homes would have the authority to make private or public investigations, within or outside the state, of applicants or licensees, to administer oaths and affirmations, to subpoena witnesses, to take evidence, and to institute enforcement proceedings or to enter into consent proceedings. The division would be authorized to issue cease and desist orders against licensed and unlicensed violators, and to bring action in circuit court for declaratory or injunctive relief. The division would also be authorized to impose civil penalties not to exceed \$5,000 per violation.

**II. ECONOMIC IMPACT AND FISCAL NOTE:**

**A. Public:**

None.

**B. Government:**

None.

**III. COMMENTS:**

None.

**IV. AMENDMENTS:**

None.

STORAGE NAME: h0828s.jud  
DATE: April 17, 1989

AS REPORTED TO CLERK

HOUSE OF REPRESENTATIVES  
COMMITTEE ON JUDICIARY  
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 828

RELATING TO: Community association management

SPONSOR(S): Committee on Judiciary and Representative Drage

EFFECTIVE DATE: October 1, 1989

COMPANION BILL(S):

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Part VIII of Chapter 468, Florida Statutes, providing for the certification of community association managers, was created in 1987. A community association is defined as an association in which membership is mandatory, lien rights attach for unpaid assessments, and the association serves more than 50 units or has an annual budget greater than \$100,000. Any of the following practices, when performed for remuneration, require certification: controlling or disbursing funds, preparing financial reports or budgets, noticing or conducting association meetings, and coordinating maintenance.

B. EFFECT OF PROPOSED CHANGES:

This bill is intended to revise some of the provisions initially adopted in 1987 regulating community association managers. The definition of "community association manager" is amended to preclude the application of the act to strictly maintenance personnel.

In addition, the bill changes the current certification requirement to a licensure requirement, and authorizes the Department of Business Regulation to establish, in addition to the licensing program, a certification program so that community association managers may hold themselves out as specialists in specified areas of community association management, such as condominiums, or subdivisions, etc.

Finally, more complete enforcement powers are provided to the Division, including investigatory mechanisms, the right to apply for declaratory or injunctive relief, and the ability to impose civil penalties.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 468.431(2), F.S., the definition of "community association management", so that in addition to requiring licensure of managers of associations serving more than 50 units or having an annual budget in excess of \$100,000, licensure is required when a person manages any number of associations jointly containing more than 50 units or having combined budgets in excess of \$100,000. An exception to the definition of community association management is made in the case where a person only performs maintenance of a community association and does not assist in any of the other services for which licensure is required.

Section 1 also defines "division" to mean the Division of Florida Land Sales, Condominiums and Mobile Homes, the division which enforces the act.

Section 2 amends s. 468.432, F.S., to conform the terms "license" and "certification".

Section 3 amends s. 468.433, F.S., to allow the department to establish classifications of licensed community association managers for which a manager may choose to become certified. The manager must have been licensed as a community association manager for at least two years and must have completed the educational requirements established by the department.

Section 4 amends s. 468.436, F.S., to provide the Division of Florida Land Sales, Condominiums and Mobile Homes with the powers required to enforce Part VIII. Currently the Division is limited to suspending or revoking certifications of community association managers. The added language gives the Division the authority to make investigations, administer oaths or affirmations, subpoena witnesses, take evidence, and require the production of any matter relevant to an investigation; to institute enforcement proceedings including consent proceedings, cease and desist orders, or actions in circuit court for declaratory or injunctive relief; and to impose civil penalties not to exceed \$5,000 per violation.

Section 5 provides that the act shall take effect October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

No positions were created within the Department of Business regulation when the Community Association Management legislation was initially adopted and the new duties were absorbed by employees within the Bureau of Condominiums. This year's general appropriations act will address the need

for positions for this program. CS/HB 828 will not cause the need for more positions than those already being requested.

2. Recurring or Annualized Continuation Effects:

See 1. above.

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the Housing policies of the State Comprehensive Plan by protecting consumers from mismanagement of their community associations.

IV. COMMENTS:

This bill does not directly affect the House Policy Statement or Committee Mission Statement.

V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

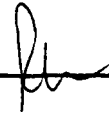
Prepared by:

Debby Kearney *dk*

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Staff Director:  
Richard Hixson

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SECOND COMMITTEE OF REFERENCE:

Prepared by:

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Staff Director:

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APPROPRIATIONS:

Prepared by:

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Staff Director:

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