

Statement Regarding Community Manager Licensing Law Sunset Review
for House Committee on Business Affairs and Labor, February 13, 2018
From Ed Seely, 415 S. Howes, #710, Fort Collins, CO ehsplt2017@gmail.com

My name is Ed Seely. I'm on an HOA Board in Fort Collins. My HOA was self-managed for around 40 years, then went with a management company in 2012. After 5 years with the management company, our Board elected to become self-managed again. So, I've experienced having services provided by a management company as well as being self-managed. I'm also a member of the CAI Rocky Mountain Chapter since 2010.

The requirement that any direct (or W-2) employee of an HOA or CIC needs to be licensed as a CAM is unnecessary, burdensome, and limits the ability of an HOA Board to govern the HOA. There are many issues created by this requirement. Here are examples of some:

- If a licensed direct employee leaves, an HOA may be in a difficult position in the transition because of needing to rely on someone without a license.
- An HOA may have greater difficulty in finding a replacement direct employee who is licensed (or who can be licensed).
- Having to license direct employees is a greater cost for an HOA (e.g. insurance and paying for training) and requires additional time for an employee to get and maintain the license.
- The training for the CAM license has only limited value for a direct employee who is primarily responsible for maintenance.
- Complaints regarding a licensed direct employee may go to DORA when it may be more appropriate to have an HOA Board deal with the complaint.
- The law can require an HOA with a community manager to have to license a direct employee also as a community manager

Recommendation: Make all direct (W-2) employees of an HOA or CIC exempt from CAM licensing requirements. These folks are under the direct control of the Board of Directors. This recommendation would simplify the governance of the HOA and reduce cost and uncertainty in trying to follow the law by the HOA.

The HOA community is a major stakeholder for any law related to community manager licensing--especially if it compels direct employees of the HOA to be licensed. Yet I am not aware of any survey of the HOA community related to this law and its sunset review. No action should be taken to extend the sunset term significantly without a clear outreach to all the stakeholders. This has not been done to my knowledge by DORA/DORA for the HOA community.

Recommendation: Revise the sunset date earlier to June 30, 2019 and direct that DORA redo their sunset review during the coming year and specifically reach out to each actively registered HOA/CIC with a survey to get input from these stakeholders and ensure they have input to the process. It would be desirable to have more complete education for the HOA community about the law and its potential impacts on the HOA community as part of this process. This recommendation should not be seen as an alternative to exempting HOA direct employees for the license requirement.

The law as written has significant issues that impact HOA's. Rather than just addressing the issues listed above, do a more complete review than has been done.

Recommendation: Take no action on the bill at today's hearing and have sponsors work with stakeholders that include HOA's to draft proposed amendments to the bill that could clear up questions and concerns about the law.

Suggested Amendment to HB18-1175 from Ed Seely

Title: Exempt HOA direct employees)

Problem: The current law regarding licensing of community managers requires some direct (W-2) employees of a CIC or HOA to be licensed as a community manager. This requirement is burdensome, unreasonable, unnecessary, and often confusing for HOA and CIC Boards of Directors. This requirement limits the ability of a Board of directors to govern in compliance with their governing documents.

Solution: Exempt all direct W-2 employees of CICs and HOAs

Details in HB18-1175:

Page 3 line 17. Change to read: community, ~~at the direction of or on behalf of its executive board:~~

Page 3 lines 24-27 and page 4 lines 1-2. Replace with new wording to read as follows:

(b) "Community association management" does not mean:

(I) the performance of any clerical, ministerial, accounting, or maintenance function.

(II) THE PERFORMANCE OF ANY ACTION BY A DIRECT "W-2" EMPLOYEE OF A CIC OR HOA OR ITS BOARD OF DIRECTORS.

(III) THE DIRECTOR MAY ADOPT RULES TO FURTHER DEFINE OR CLARIFY WHETHER A SPECIFIC FUNCTION FALLS WITHIN THIS SUBSECTION 4(b) AND REQUIREMENTS THAT APPLY FOR SUPERVISION OF SUPPORT STAFF BY LICENSED MANAGERS.

Page 4 line 16-17. Replace with new wording to read as follows:

(VII)(B) Is not otherwise engaged in the performance of community association management; ~~or~~

(VIII) An apprentice working under the ~~direct~~ supervision of a licensed manager; OR

(IX) ANY DIRECT "W-2" EMPLOYEE OF A CIC, HOA, OR ITS BOARD OF DIRECTORS.

Suggested Amendment to HB18-1175 from Ed Seely

Title: Set sunset date to June 30, 2019. Survey HOA community.

Problem: DORA's 2017 Sunset Review of the Community Association Management Practice Act did not adequately survey HOA/CIC members or their associated Boards of Directors.

Solution: Change sunset date to June 30, 2019. Direct DORA to redo the Sunset Review to include all stakeholders' input.

Details in HB18-1175:

Page 2 line 5. Change to read: July 1, 20182019. ~~Prior to the~~ BEFORE ITS repeal, the

Page 2 lines 7-8. Add new wording to read as follows: THE DIRECTOR SHALL ENSURE THAT THE SUNSET REVIEW INCLUDES THE RESULTS OF SURVEYS SENT TO ALL CURRENTLY ACTIVE REGISTERED CICS, HOAS, AND THEIR ASSOCIATED BOARDS OF DIRECTORS.

Section 2 of the Bill. Will have to be appropriately revised by the bill drafter.

Obviously, there will need to be provisions made for the expenditure of funds by DORA.