

New legislation - the Condominium Management Services Act, 2015 - addresses the licensing of professional condominium managers and management companies.



Condominium Management Services Act, 2015

What does this mean for you?

BY MARNIE MCBAIN, RCM

IF YOU ARE A MEMBER of ACMO, and are involved in any way with condominiums in Ontario, you are very aware that on May 27, 2015, Bill 106 was tabled in the Ontario legislature. Part of Bill 106 is the introduction of a new piece of legislation called the *Condominium Management Services Act, 2015* (CMSA). What does this mean for condominium managers and the condominium industry as a whole in Ontario?

The first 33 sections of the CMSA are great bedtime reading, especially if you have insomnia. These sections refer to the set up and administration of the “Administrative Authority” that will oversee all condominium management activities in Ontario. All kidding aside, these sections should be read by anyone who will ultimately be governed by this Act so they can better understand the structure of the Administrative Authority.

But who will ultimately be governed by this Act? Section 34 of the CMSA states:

34. (1) *No person shall provide condominium management services unless licensed as a condominium management provider or as a condominium manager.*

Unlicensed persons

(2) *A person who is not licensed as a condominium management provider or condominium manager shall not,*

(a) directly or indirectly hold himself, herself or itself out as being a condominium management provider or condominium manager, respectively; or

(b) perform any of the functions of a condominium management provider or condominium manager.

Translation: If the CMSA received Royal Assent today, every person

to that careless attitude and finally give some “teeth” to the real professionals in this industry who have worked tirelessly to ensure that condominium management is recognized as a profession? In light of the proposed regulations, many in the industry feel the CMSA will help eliminate untrained managers from the profession. The

in the requirement that an employer send a manager for further education at the employer’s expense. (I wonder how many management companies will continue to pay to re-educate their licensed managers?) Additionally, the committee could impose a fine of up to \$25,000 on the licensee.

So now we are talking money – you’re an RCM so you’re wondering how much is this new Act going to cost you? Looking at other administrative authorities in Ontario, there is a profession which is approximately the same size as

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managing a condominium in this province would be affected and governed by the Act. At this time, the only hint at any exception is in Section 35 which states:

35. *Despite section 34, a licence shall not be required in respect of the provision of condominium management services by the persons or in the circumstances that are prescribed.*

The condominium professionals who have worked with the government to develop the CMSA are of the opinion that the “Exemptions” referred to in Section 35 will be drafted to allow for “self-managed” condominiums.

In the past, we have all heard someone say: “There are no condo police!” Will this piece of legislation put an end

proposed legislation will make manager education mandatory and the disciplinary powers given to the Registrar will help eliminate unethical managers and management companies, some of whom have caused financial hardship and heartache for unsuspecting homeowners.

Section 34(3) warns that unless you are licensed, you cannot bring any action before the courts if your clients refuse to pay you for your services. Furthermore, Section 57 speaks to the creation of a disciplinary committee that will determine if there has been a failure to comply with the code of ethics (as yet to be defined) as set out in Section 76(1) (a). A failure to comply with the code of ethics could result

that of condominium managers: funeral directors! (Does anyone else see the humour in this?) Funeral directors pay approximately \$700–\$750 per year (plus tax) for their licenses. It is therefore presumed that a condominium manager’s licensing fees will be within this range.

And what about condominium management companies? At this point it would only be speculation, however, this writer would like to see that the regulations take into account the smaller centres in Ontario where corporations and portfolios are smaller, so that the provider’s fees are pro-rated according to the number of units managed by the provider. It seems unreasonable to have a flat fee system



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that would see a provider in a smaller community pay the same as providers in larger centres. A flat fee system would financially penalize not only a provider in a community with smaller condominiums (where there may only be 30 units per corporation,) it would ultimately penalize the owners in that community as the providers will inevitably pass the additional expenses onto their clients via the management fees. Providers in larger cities where one corporation may contain 500 units and a provider may be managing 10,000 units, should pay more for their fees (and exposure to liability) than a provider who may only have access to 500 units total in their whole community.

And finally, for those who are currently working hard to educate themselves and become RCMs, you may be asking yourself if, at this point in time, it's worth continuing the hard work and effort it takes to achieve the RCM? The answer is YES! It will likely be two years (or possibly more) before the Act (or any part thereof) is proclaimed and enacted. Thus, if you are only months away from your RCM exam, it is definitely in your best interest to fulfill this achievement! It is generally agreed and accepted that the current government recognizes ACMO's contribution to the education of condominium managers in this province and it is likely that the RCM designation, and the education towards achieving the RCM, will be the benchmark for the licences we all ultimately will have to attain to continue providing condominium management services.

So what's next for management and management companies? Until the CMSA is actually passed and regulations are established, we professionals can continue to uphold and abide by the principles and ethics set out by ACMO. We must continue to act professionally and to educate ourselves on all matters condo. ♦



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