

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
COMMUNITY ASSOCIATION MANAGERS
4 CCR 725-7**

**NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
March 4, 2015**

E RULES – SEPARATE ACCOUNTS – RECORDS - ACCOUNTINGS

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Director of the Division of Real Estate (“Director”) to promulgate rules, or to amend, repeal or repeal and re-enact the present rules related to community association managers.

STATEMENT OF BASIS

The statutory basis for the rules titled Rules Regarding Community Association Managers is Part 10 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the state statutes of the Community Association Managers Practice Act.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to promulgate rules with respect to the requirements for handling and accounting money belonging to a common interest community and ensures that community association managers are familiar with current regulations.

Proposed New, Amended and Repealed Rules

[Deleted material shown ~~struck through~~, new material shown ALL CAPS. Rules, or portions of rules, which are unaffected are reproduced. Readers are advised to obtain a copy of the complete rules of the Board at www.dora.state.co.us/real-estate/.

E RULES – SEPARATE ACCOUNTS – RECORDS - ACCOUNTINGS

E-1) ESTABLISHMENT OF INTERNAL ACCOUNTING CONTROLS.

EVERY CAM AND CAM COMPANY MUST ESTABLISH WRITTEN INTERNAL ACCOUNTING CONTROL POLICIES, WHICH MUST INCLUDE ADEQUATE CHECKS AND BALANCES OVER THE FINANCIAL ACTIVITIES OF THE CAM, CAM COMPANY, AND COMMON INTEREST COMMUNITY, AS WELL AS MANAGE THE RISK AND FRAUD OF ILLEGAL ACTS. POLICIES AND PROCEDURES MUST BE DESIGNED TO PROVIDE REASONABLE ASSURANCES IN THE RELIABILITY OF FINANCIAL REPORTING, INCLUDING, WITHOUT

LIMITATION, PROPER MAINTENANCE OF ACCOUNTING RECORDS, DOCUMENTATION OF THE AUTHORIZATION FOR RECEIPTS AND DISBURSEMENTS, VERIFICATION OF THE INTEGRITY OF THE DATA USED IN MAKING BUSINESS DECISIONS, FACILITATION OF FRAUD DETECTION AND PREVENTION, AND COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS GOVERNING FINANCIAL RECORDS.

E-2) ACCOUNTING METHODS.

IN THE ABSENCE OF A WRITTEN AGREEMENT TO THE CONTRARY, THE ACCRUAL BASIS OF ACCOUNTING WILL BE USED FOR MAINTAINING ALL REQUIRED ACCOUNTS AND RECORDS. IF ANY OTHER ACCOUNTING METHOD IS REQUESTED BY THE COMMON INTEREST COMMUNITY TO THE CAM OR CAM COMPANY, ANY SUCH REQUEST MUST BE IN WRITING AND AVAILABLE FOR INSPECTION BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR.

E-3) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

ALL ACCOUNTING RECORDS MUST BE IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP), WHICH ARE ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (AICPA). ACCOUNTING RECORDS FOR THE PURPOSES OF THIS RULE MEANS ALL BOOKS AND RECORDS THAT IDENTIFY, MEASURE, RECORD OR COMMUNICATE FINANCIAL INFORMATION.

E-4) MONEY BELONGING TO OTHERS DEFINED.

MONEY BELONGING TO OTHERS WHICH IS COLLECTED BY THE CAM OR CAM COMPANY INCLUDES, BUT IS NOT LIMITED TO, ANY MONEY COLLECTED IN CONNECTION WITH: ASSESSMENTS, WORKING CAPITAL, FINES, RESERVES, MISCELLANEOUS DEPOSITS (E.G. AMENITY RENTALS), OR MONEY BELONGING TO OTHERS COLLECTED FOR ANY OTHER PURPOSE.

E-5) COMMON INTEREST COMMUNITY FUNDS.

ALL MONEY BELONGING TO OTHERS COLLECTED BY A CAM OR CAM COMPANY ON BEHALF OF A COMMON INTEREST COMMUNITY DOING BUSINESS IN THIS STATE, MUST BE DEPOSITED IN ONE OR MORE ACCOUNTS BELONGING TO THE COMMON INTEREST COMMUNITY. IF THE CAM OR CAM COMPANY HAS ACCESS TO COMMON INTEREST COMMUNITY FUNDS, WRITTEN AUTHORIZATION TO COLLECT OR DISPERSE MONEY BELONGING TO OTHERS MUST BE OBTAINED AND AN ACCOUNTING OF THE FUNDS MUST BE MAINTAINED. THE CAM OR CAM COMPANY MUST RETAIN A COPY OF EACH SUCH AUTHORIZATION EXECUTED FOR INSPECTION BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR.

E-6) COMMINGLING PROHIBITED.

ALL MONEY BELONGING TO OTHERS RECEIVED BY A CAM OR CAM COMPANY MUST BE SEGREGATED INTO EACH RESPECTIVE COMMON INTEREST COMMUNITY'S BANK ACCOUNT. ALL MONEY BELONGING TO OTHERS MUST BE DEPOSITED WITHIN 5 BUSINESS DAYS UPON RECEIPT UNLESS OTHERWISE AGREED TO IN WRITING BY THE COMMON INTEREST COMMUNITY'S EXECUTIVE BOARD. MONEY BELONGING TO ONE COMMON INTEREST COMMUNITY MUST BE USED ONLY FOR THE BENEFIT OF THAT COMMON INTEREST COMMUNITY. IT MUST NOT BE USED FOR THE BENEFIT OF ANY OTHER PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO ANOTHER COMMON INTEREST COMMUNITY, CAM, OR CAM COMPANY.

E-7) RECORDKEEPING REQUIREMENTS.

A CAM AND CAM COMPANY MUST SUPERVISE AND MAINTAIN, AT THEIR PLACE OF BUSINESS, A RECORD KEEPING SYSTEM CONSISTING OF AT LEAST THE FOLLOWING ELEMENTS FOR EACH COMMON INTEREST COMMUNITY ACCOUNT FOR WHICH THE CAM OR CAM COMPANY HAS ACCESS TO, OR DEPOSITS, MONEY BELONGING TO OTHERS:

1) GENERAL LEDGER.

A GENERAL LEDGER MUST BE MAINTAINED FOR EACH COMMON INTEREST COMMUNITY ACCOUNT, WHICH INCLUDES SUB-LEDGERS OF INDIVIDUAL ACCOUNTING OF ASSETS, LIABILITIES, FUND BALANCES, INCOME AND EXPENSES. THE GENERAL LEDGER MUST SHOW THE CHRONOLOGICAL SEQUENCE IN WHICH FUNDS ARE RECEIVED INTO AND DISBURSED FROM EACH ACCOUNT.

2) RECORDING OF TRANSACTIONS.

a) FUNDS RECEIVED. A JOURNAL MUST BE MAINTAINED FOR ALL FUNDS RECEIVED, WHICH INCLUDES THE DATE THE FUNDS WERE RECEIVED, THE NAME OF THE PERSON OR ENTITY ON WHOSE BEHALF THE FUNDS WERE DELIVERED, THE CHECK NUMBER, THE GENERAL LEDGER ACCOUNTS WITHIN WHICH THE TRANSACTIONS ARE TO BE RECORDED AND THE AMOUNT DELIVERED.

b) FUNDS DISBURSED. A JOURNAL MUST BE MAINTAINED FOR ALL FUNDS DISBURSED, WHICH INCLUDES THE DATE THE FUNDS WERE DISBURSED, THE PAYEE, THE CHECK NUMBER, THE GENERAL LEDGER ACCOUNTS WITHIN WHICH THE TRANSACTION ARE TO BE RECORDED AND THE AMOUNT DISBURSED.

c) ASSESSMENTS TO MEMBERS. A JOURNAL MUST BE MAINTAINED FOR ALL ASSESSMENTS TO MEMBERS, WHICH INCLUDES THE DATE THE ASSESSMENT IS BILLED, THE NAME OF THE PERSON OR ENTITY TO WHICH THE ASSESSMENT IS RESPONSIBLE AND THE GENERAL LEDGER ACCOUNTS WITHIN WHICH THE TRANSACTIONS ARE TO BE RECORDED.

d) GENERAL JOURNAL. A JOURNAL MUST BE MAINTAINED OF ALL INVOICES FOR SERVICES AND/OR PRODUCTS AND OTHER TRANSACTION OF THE COMMON INTEREST COMMUNITY, WHICH INCLUDES THE DATE THE INVOICE IS ISSUED, THE NAME OF THE PERSON OR ENTITY TO WHICH THE INVOICE IS DUE, THE GENERAL LEDGER ACCOUNTS WITHIN WHICH THE TRANSACTIONS ARE TO BE RECORDED, THE DATE OF THE TRANSACTION ENTRY, THE GENERAL LEDGER ACCOUNTS WITHIN WHICH THE TRANSACTIONS ARE TO BE RECORDED, THE AMOUNT OF THE TRANSACTION AND AN EXPLANATION OF THE PURPOSE OF THE TRANSACTION.

3) MONTHLY RECONCILIATION STATEMENTS.

a) BANK ACCOUNTS. EVERY CAM OR CAM COMPANY MUST RECONCILE, IN A TIMELY MANNER AFTER RECEIPT OF THE MONTHLY BANK STATEMENT, EACH COMMON INTEREST COMMUNITY ACCOUNT, EXCEPT WHEN THERE HAS BEEN NO TRANSACTIONAL ACTIVITY DURING THE PREVIOUS MONTH. A RECONCILIATION MUST INCLUDE A WRITTEN WORK SHEET COMPARING THE BALANCES AS SHOWN ON THE BANK ASSOCIATION STATEMENT AND THE GENERAL LEDGER, RESPECTIVELY, IN ORDER TO ENSURE AGREEMENT BETWEEN THE COMMON INTEREST COMMUNITY ACCOUNT AND THE GENERAL LEDGER ENTRIES.

- b) MEMBER RECEIVABLES. EVERY CAM OR CAM COMPANY MUST RECONCILE, IN A TIMELY MANNER, THE SUB-LEDGER OF MEMBER RECEIVABLES TO THE GENERAL LEDGER.
 - c) ACCOUNTS PAYABLE. EVERY CAM OR CAM COMPANY MUST RECONCILE, IN A TIMELY MANNER, THE SUB-LEDGER OF OUTSTANDING INVOICES TO THE GENERAL LEDGER.
- 4) SUPPORTING DOCUMENTATION.
- a) EVERY CAM OR CAM COMPANY MUST MAINTAIN SUPPORTING RECORDS, WHICH ACCURATELY DETAIL ALL MONEY RECEIVED AND DISBURSED ON BEHALF OF THE COMMON INTEREST COMMUNITY. SUCH SUMMARY TOTALS MUST BE RECONCILABLE TO THE RECORDS SUPPORTING THE SUMMARY.
 - b) ALL DEPOSITS OF FUNDS MUST BE DOCUMENTED (FOR EXAMPLE, THROUGH BANK DEPOSITS), AND MUST INCLUDE CONFIRMATION OF ELECTRONIC AND TELEPHONIC TRANSFERS, OR ON DETAILED SCHEDULES ATTACHED TO THE DEPOSIT SLIPS OR CONFIRMATIONS. THE DOCUMENTATION MUST IDENTIFY EACH PERSON TENDERING FUNDS TO THE CAM OR CAM COMPANY FOR DEPOSIT, THE AMOUNT OF FUNDS TENDERED, TYPES OF FUNDS RECEIVED FROM EACH PERSON, AND THE PROPERTY ADDRESS AFFECTED. ALL DISBURSEMENTS OF FUNDS MUST BE SUPPORTED BY SOURCE DOCUMENTS SUCH AS BIDS, INVOICES, CONTRACTS, ETC., THAT IDENTIFY THE PAYEES, THE COMMON INTEREST COMMUNITY AFFECTED AND AMOUNT OF FUNDS TRANSFERRED FOR EACH COMMON INTEREST COMMUNITY.
- 5) FINANCIAL REPORTS.
- EVERY CAM OR CAM COMPANY MUST FURNISH, AND HAVE AVAILABLE FOR REVIEW BY THE DIRECTOR, ALL FINANCIAL REPORTS OF THE COMMON INTEREST COMMUNITY IN THE MANNER AND TIME PRESCRIBED IN THE MANAGEMENT AGREEMENT OR, IN THE ABSENCE OF A PROVISION IN THE WRITTEN MANAGEMENT AGREEMENT, WITHIN 30 CALENDAR DAYS AFTER THE END OF EACH MONTH, WHICH INCLUDES AT A MINIMUM THE FOLLOWING:
- a) A BALANCE SHEET.
 - b) INCOME AND EXPENSE STATEMENTS.
 - c) ALL BANK RECONCILIATIONS AND COPIES OF BANK STATEMENTS THAT SUPPORT THE RECONCILIATION. THE RECONCILED BALANCE MUST AGREE WITH THE BALANCE OF THE ACCOUNT IN THE BALANCE SHEET.
 - d) AGING OF ACCOUNTS RECEIVABLE. THE AGING MUST AGREE WITH THE BALANCE REPORTED ON THE BALANCE SHEET.
 - e) AGING OF ACCOUNTS PAYABLE. THE AGING MUST AGREE WITH THE BALANCE REPORTED ON THE BALANCE SHEET.
 - f) INVESTMENT ACCOUNTS. COPIES OF BANK STATEMENTS AND INVESTMENT ADVISOR REPORTS RECONCILED TO THE BALANCE AS REPORTED ON THE BALANCE SHEET.
- 6) MASTER COMMON INTEREST COMMUNITY ACCOUNT LOG.
- EVERY CAM OR CAM COMPANY MUST MAINTAIN A MASTER ASSOCIATION ACCOUNT LOG (“MASTER ASSOCIATION ACCOUNT LOG”) IDENTIFYING ALL COMMON INTEREST COMMUNITY ACCOUNT NUMBERS AND THE NAME AND ADDRESS OF THE BANK WHERE THE COMMON

INTEREST COMMUNITY ACCOUNTS ARE LOCATED. THE MASTER ASSOCIATION ACCOUNT LOG MUST SPECIFICALLY INCLUDE ALL BANK ACCOUNT NUMBERS OPENED FOR A COMMON INTEREST COMMUNITY EVEN IF ACCOUNT NUMBERS FALL UNDER ANOTHER UMBRELLA ACCOUNT NUMBER.

E-8) PRODUCE RECORDS FOR INSPECTION.

EVERY CAM OR CAM COMPANY MUST PRODUCE FOR INSPECTION, BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR, ANY RECORDS NECESSARY TO COMPLETE AUDITS OR INVESTIGATIONS.