S T A T E O F N E W Y O R K

4917

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

Introduced by M. of A. GABRYSZAK -- Multi-Sponsored by -- M. of A. CROUCH, HOOPER -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to licensing of professional community association management

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The real property law is amended by adding a new article 12-D to read as follows:

ARTICLE 12-D

COMMON INTEREST COMMUNITY ASSOCIATION MANAGERS

SECTION 448. DEFINITIONS.

448-A. LICENSE REQUIRED FOR COMMON INTEREST COMMUNITY ASSOCIATION MANAGEMENT.

448-B. EXEMPTIONS FROM LICENSURE.

448-C. STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

448-D. POWERS OF THE BOARD.

448-E. OFFICIAL REGISTRY OF COMMON INTEREST COMMUNITY MANAGERS TO BE KEPT BY THE COMMISSIONER.

448-F. LICENSING.

448-G. FIDUCIARY CAPACITY OF COMMON INTEREST COMMUNITY MANAGERS.

448-H. REVOCATION OR SUSPENSION OF LICENSE OF A COMMON INTEREST COMMUNITY MANAGER.

448-I. JUDICIAL REVIEW.

448-J. ENFORCEMENT.

448-K. STAY OR SUSPENSION OF COMMISSIONER'S DETERMINATION.

S 448. DEFINITIONS. 1. WHENEVER USED IN THIS ARTICLE, THE TERM "ASSOCIATION" MEANS A COMMON INTEREST COMMUNITY ASSOCIATION.

2. THE TERM "BOARD" MEANS THE STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

3. THE TERM "COMMON INTEREST COMMUNITY" MEANS:

(A) A CONDOMINIUM AS DEFINED IN ARTICLE NINE-B OF THIS CHAPTER;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD08061-02-3

(B) A COOPERATIVE HOUSING CORPORATION AS DEFINED IN SECTION TWO HUNDRED TEN OF THE TAX LAW; OR

(C) A HOMEOWNERS ASSOCIATION AS DEFINED IN SECTION TWO HUNDRED TEN OF THE TAX LAW.

(D) THE TERM "COMMON INTEREST COMMUNITY" DOES NOT MEAN A TIME-SHARE PROJECT.

4. THE TERM "COMMON INTEREST COMMUNITY ASSOCIATION" MEANS AN ASSOCIATION IN WHICH MEMBERSHIP IS A CONDITION OF OWNERSHIP OR SHAREHOLDER INTEREST IN A RESIDENTIAL UNIT THAT IS PART OF A COMMON INTEREST COMMUNITY.

5. THE TERM "COMMON INTEREST COMMUNITY ASSOCIATION MANAGER" MEANS AN INDIVIDUAL WHO FOR CONSIDERATION PROVIDES MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY.

6. THE TERM "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE BOARD TO ACT AS A COMMON INTEREST COMMUNITY ASSOCIATION MANAGER.

7. THE TERM "LICENSED COMMON INTEREST COMMUNITY ASSOCIATION MANAGER" MEANS AN INDIVIDUAL LICENSED BY THE BOARD TO PROVIDE MANAGEMENT SERVICES TO A COMMON INTEREST COMMUNITY ASSOCIATION.

8. THE TERM "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF EDUCATION.

9. THE TERM "PROVIDE MANAGEMENT SERVICES" MEANS:

(A) TO ACT WITH THE AUTHORITY OF AN ASSOCIATION IN ITS BUSINESS, LEGAL, FINANCIAL, OR OTHER TRANSACTIONS WITH ASSOCIATION MEMBERS AND NONMEMBERS;

(B) TO EXECUTE THE RESOLUTIONS AND DECISIONS OF AN ASSOCIATION OR, WITH THE AUTHORITY OF THE ASSOCIATION, TO ENFORCE THE RIGHTS OF THE ASSOCIATION SECURED BY STATUTE, CONTRACT, COVENANT, RULE, OR BY LAW;

(C) TO NEGOTIATE CONTRACTS OR OTHERWISE COORDINATE OR ARRANGE FOR SERVICES OR THE PURCHASE OF PROPERTY AND GOODS FOR OR ON BEHALF OF AN ASSOCIATION;

(D) TO COLLECT, DISBURSE, OR OTHERWISE EXERCISE DOMINION OR CONTROL OVER MONEY OR OTHER PROPERTY BELONGING TO AN ASSOCIATION;

(E) TO PREPARE BUDGETS, FINANCIAL STATEMENTS, OR OTHER FINANCIAL REPORTS FOR AN ASSOCIATION;

(F) TO ARRANGE, CONDUCT, OR COORDINATE MEETINGS OF AN ASSOCIATION OR THE GOVERNING BODY OF AN ASSOCIATION; OR

(G) TO OFFER OR SOLICIT TO PERFORM ANY OF THE ACTS OR SERVICES LISTED IN PARAGRAPHS (A) THROUGH (F) OF THIS SUBDIVISION ON BEHALF OF AN ASSOCIATION.

S 448-A. LICENSE REQUIRED FOR COMMON INTEREST COMMUNITY ASSOCIATION MANAGEMENT. NO PERSON SHALL ACT AS A COMMON INTEREST COMMUNITY ASSOCIATION MANAGER IN THIS STATE OR USE THE TITLE "COMMON INTEREST COMMUNITY ASSOCIATION MANAGER" UNLESS SUCH PERSON HAS THE AUTHORITY TO DO SO BY VIRTUE OF A LICENSE ISSUED AND IN FORCE PURSUANT TO THE PROVISIONS OF THIS ARTICLE OR SUCH PERSON IS EXEMPT FROM THE LICENSURE REQUIREMENTS PROVIDED IN THIS ARTICLE.

S 448-B. EXEMPTIONS FROM LICENSURE. THIS TITLE DOES NOT REQUIRE AN INDIVIDUAL TO HOLD A LICENSE IF THEY ARE:

1. A PERSON WHO IS THE REGULAR, SALARIED EMPLOYEE OF A LICENSED COMMON INTEREST COMMUNITY ASSOCIATION MANAGER OR ENTITY LAWFULLY ENGAGED IN COMMON INTEREST COMMUNITY ASSOCIATION MANAGEMENT ENGAGED IN THE PERFORMANCE OF ADMINISTRATIVE, INTERNAL, PROCESS-ORIENTED BOOKKEEPING FUNCTIONS OR MINISTERIAL FUNCTIONS IN SUPPORT OF THE MANAGEMENT ENTITY;

2. ADMINISTRATIVE SUPPORT STAFF OR AN ASSISTANT OF A LICENSED COMMON INTEREST COMMUNITY ASSOCIATION MANAGER WHO, IN SUPPORT OF A LICENSED MANAGER, MAY INCIDENTALLY ENGAGE IN THE ACTIVITIES OUTLINED IN PARA-

GRAPHS (A), (B), (C), AND (D) OF SUBDIVISION NINE OF SECTION FOUR HUNDRED FORTY-EIGHT OF THIS ARTICLE, PROVIDED SUCH EMPLOYEE IS DIRECTLY SUPERVISED BY A LICENSED COMMON INTEREST COMMUNITY ASSOCIATION MANAGER;

3. A RESIDENT OF A COMMON INTEREST COMMUNITY ASSOCIATION WHO ACTS WITHOUT COMPENSATION FROM PROVIDING MANAGEMENT SERVICES FOR SUCH COMMON INTEREST COMMUNITY ASSOCIATION;

4. A MEMBER OF THE GOVERNING BOARD OF AN ASSOCIATION WHO ACTS WITHOUT COMPENSATION FROM PROVIDING MANAGEMENT SERVICES FOR SUCH ASSOCIATION'S COMMON INTEREST COMMUNITY;

5. AN ATTORNEY AT LAW FROM REPRESENTING AN ASSOCIATION OR A COMMON INTEREST COMMUNITY MANAGER IN ANY BUSINESS THAT CONSTITUTES THE PRACTICE OF LAW;

6. A CERTIFIED PUBLIC ACCOUNTANT FROM PROVIDING BOOKKEEPING OR ACCOUNTING SERVICES TO AN ASSOCIATION OR A COMMON INTEREST COMMUNITY MANAGER;

7. A REAL ESTATE BROKER OR SALESPERSON FROM SELLING, LEASING, RENTING, OR MANAGING INDIVIDUAL LOTS OR UNITS WITHIN A COMMON INTEREST COMMUNITY ASSOCIATION;

8. A PERSON WHO ACTS AS A RECEIVER OR TRUSTEE IN BANKRUPTCY IN THE PERFORMANCE OF DUTIES OR A PERSON WHO ACTS UNDER A COURT ORDER FROM PROVIDING MANAGEMENT SERVICES FOR A COMMON INTEREST COMMUNITY ASSOCIATION;

9. A DECLARANT FROM PROVIDING MANAGEMENT SERVICES FOR A COMMON INTEREST COMMUNITY ASSOCIATION; OR

10. AN ASSOCIATION, EXCHANGE AGENT, EXCHANGE COMPANY, MANAGING AGENT, OR MANAGING ENTITY OF A TIME-SHARE PROJECT FROM PROVIDING MANAGEMENT SERVICES FOR A TIME-SHARE PROJECT.

S 448-C. STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS. 1. THE NEW YORK STATE BOARD OF REGENTS SHALL ESTABLISH A STATE BOARD OF COMMON INTEREST COMMUNITY MANAGERS.

2. THE BOARD SHALL CONSIST OF ELEVEN MEMBERS. SUCH MEMBERS SHALL INCLUDE THE FOLLOWING:

(A) FOUR SHALL BE LICENSED COMMON INTEREST COMMUNITY MANAGERS;

(B) ONE SHALL BE A NEW YORK LICENSED ATTORNEY WHOSE PRACTICE INCLUDES THE REPRESENTATION OF ASSOCIATIONS;

(C) ONE SHALL BE A CERTIFIED PUBLIC ACCOUNTANT WHOSE PRACTICE INCLUDES PROVIDING SERVICES TO ASSOCIATIONS; AND

(D) ONE SHALL BE A MEMBER OF THE GOVERNING BOARD OF AN ASSOCIATION.

3. THE BOARD OF REGENTS, UPON RECOMMENDATION OF THE COMMISSIONER OF EDUCATION, SHALL APPOINT THE MEMBERS OF THE BOARD.

4. EACH MEMBER OF THE BOARD SHALL BE:

(A) A CITIZEN OF THE UNITED STATES; AND

(B) A RESIDENT OF THE STATE.

5. THE TERM FOR EACH MEMBER SHALL BE FOUR YEARS AND SHALL BEGIN ON JULY FIRST.

6. AT THE END OF A TERM, A MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES FOR SUCH POSITION.

7. A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SHALL SERVE ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES FOR SUCH POSITION.

8. A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

9. FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND VICE CHAIR.

10. THE TERM OF THE CHAIR AND VICE CHAIR SHALL BE ONE YEAR.

11. A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

12. THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

13. EACH MEMBER OF THE BOARD SHALL BE ENTITLED TO:
(A) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;
(B) REIMBURSEMENT FOR EXPENSES UNDER THE STATE STANDARD; AND
(C) THE BOARD MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.
S 448-D. POWERS OF THE BOARD. 1. IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY ADOPT:
(A) BYLAWS AS NECESSARY TO DO THE BUSINESS OF THE BOARD; AND
(B) REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.
2. IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD SHALL:
(A) ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE;
(B) ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE;
(C) ADOPT REGULATIONS TO ESTABLISH QUALIFICATIONS FOR THE ISSUANCE AND RENEWAL OF LICENSES UNDER THIS ARTICLE;
(D) ADOPT REGULATIONS TO ESTABLISH STANDARDS OF CONDUCT FOR COMMON INTEREST COMMUNITY MANAGERS;
(E) ESTABLISH BY REGULATION GROUNDS FOR DENYING A LICENSE TO AN APPLICANT, REPRIMANDING A LICENSEE, SUSPENDING OR REVOKING A LICENSE, OR IMPOSING A PENALTY OR FINE AGAINST A LICENSEE;
(F) KEEP A RECORD OF ITS PROCEEDINGS;
(G) ESTABLISH REQUIREMENTS FOR APPROPRIATE TRAINING AND EDUCATIONAL CREDENTIALS OF COMMON INTEREST COMMUNITY MANAGERS, INCLUDING EXPERIENCE AND PROFESSIONAL DESIGNATION REQUIREMENTS AND PROGRAMS OFFERED BY COMMUNITY COLLEGES;
(H) ESTABLISH REQUIREMENTS FOR INDIVIDUALS TO WORK UNDER THE SUPERVISION OF A LICENSEE TO GAIN EXPERIENCE IN PROVIDING MANAGEMENT SERVICES;
(I) ESTABLISH REQUIREMENTS FOR FIDELITY BONDING OR INSURANCE TO BE REQUIRED BY LICENSEES UNDER THIS ARTICLE;
(J) ADOPT REGULATIONS TO GRANT RECIPROCITY TO PROFESSIONAL MANAGERS LICENSED OR CERTIFIED IN OTHER JURISDICTIONS; AND
(K) WITH THE APPROVAL OF THE ATTORNEY GENERAL, MAY SUE IN THE NAME OF THE STATE TO ENJOIN ANY ACT THAT IS PROHIBITED UNDER THIS ARTICLE.
3. THE BOARD MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES.
(A) THE FEES CHARGED SHALL BE:
(1) SET TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD; AND
(2) BASED ON THE CALCULATIONS PERFORMED BY THE COMMISSIONER UNDER THIS ARTICLE.
(B) THE BOARD SHALL PUBLISH THE FEE SCHEDULE SET BY THE BOARD.
4. THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.
5. THE BOARD EXERCISES ITS POWERS, DUTIES, AND FUNCTIONS SUBJECT TO THE AUTHORITY OF THE COMMISSIONER.
S 448-E. OFFICIAL REGISTRY OF COMMON INTEREST COMMUNITY MANAGERS TO BE KEPT BY THE COMMISSIONER. IT SHALL BE THE DUTY OF THE COMMISSIONER TO ENTER INTO A BOUND BOOK OR VOLUME TO BE KEPT BY HIM OR HER FOR THAT PURPOSE A LIST OF ALL COMMON INTEREST COMMUNITY MANAGERS, WHICH SHALL BE KNOWN AND DESIGNATED AS AND IS HEREBY MADE THE "OFFICIAL REGISTER OF COMMON INTEREST COMMUNITY MANAGERS IN THE STATE OF NEW YORK". THE SAID "OFFICIAL REGISTER OF COMMON INTEREST COMMUNITY MANAGERS IN THE STATE OF NEW YORK" IS HEREBY DECLARED TO BE A PUBLIC RECORD AND THE PRESUMPTIVE EVIDENCE THAT THE INDIVIDUALS NAMED THEREIN ARE LICENSED TO PRACTICE COMMON INTEREST COMMUNITY MANAGEMENT IN THIS STATE.

S 448-F. LICENSING. 1. AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL ACTS AS A COMMON INTEREST COMMUNITY MANAGER IN THE STATE.

2. TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

3. THE APPLICANT SHALL:

(A) BE A CITIZEN OF THE UNITED STATES OR HOLD A VALID PERMANENT RESIDENT CARD FROM THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES; AND

(B) BE OF GOOD CHARACTER AND REPUTATION; AND

(C) BE AT LEAST EIGHTEEN YEARS OLD; AND

(D) COMPLETE A TRAINING PROGRAM APPROVED BY THE BOARD AND SUCCESSFULLY PASS AN EXAMINATION THAT IS DEVELOPED IN ACCORDANCE WITH NATIONAL STANDARDS USING PSYCHOMETRIC MEASURES ACCREDITED BY THE NATIONAL ORGANIZATION FOR COMPETENCY ASSURANCE; OR

(E) BE ACTIVELY ENGAGED IN PROVIDING MANAGEMENT SERVICES FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR A LICENSE AND HOLD AN ACTIVE DESIGNATION AS:

(1) A REGISTERED COOPERATIVE MANAGER (RCM);

(2) A PROFESSIONAL COMMUNITY ASSOCIATION MANAGER (PCAM);

(3) AN ASSOCIATION MANAGEMENT SPECIALIST (AMS);

(4) A CERTIFIED MANAGER OF COMMUNITY ASSOCIATIONS (CMCA); AND/OR

(5) A CERTIFIED PROPERTY MANAGER (CPM).

4. AN APPLICANT FOR A LICENSE SHALL:

(A) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES;

(B) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD; AND

(C) SUBMIT PROOF OF ANY REQUIRED FIDELITY BOND OR INSURANCE POLICY REQUIRED BY THE BOARD.

5. IF AN APPLICANT QUALIFIES FOR A LICENSE UNDER THIS ARTICLE, THE BOARD SHALL SEND THE APPLICANT A NOTICE THAT STATES THAT:

(A) THE APPLICANT HAS QUALIFIED FOR A LICENSE; AND

(B) ON RECEIPT OF A LICENSE FEE SET BY THE BOARD, THE BOARD SHALL ISSUE A LICENSE TO THE APPLICANT.

(C) ON PAYMENT OF THE LICENSE FEE, THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS ARTICLE.

S 448-G. FIDUCIARY CAPACITY OF COMMON INTEREST COMMUNITY MANAGERS. 1. A LICENSEE WHO PROVIDES MANAGEMENT SERVICES FOR MORE THAN ONE ASSOCIATION SHALL MAINTAIN SEPARATE BANK ACCOUNTS FOR EACH ASSOCIATION.

2. THE FUNDS IN EACH ASSOCIATION BANK ACCOUNT MAY NOT BE COMMINGLED WITH THE FUNDS OF THE LICENSEE OR ANOTHER ASSOCIATION.

3. THE MAINTENANCE OF BANK ACCOUNTS BY A LICENSEE SHALL BE CUSTODIAL AND IN THE NAME OF THE ASSOCIATION.

S 448-H. REVOCATION OR SUSPENSION OF LICENSE OF A COMMON INTEREST COMMUNITY MANAGER. 1. SUBJECT TO THE HEARING PROVISIONS OF THIS SECTION, THE BOARD SHALL ESTABLISH BY REGULATION GROUNDS FOR DENYING A LICENSE TO AN APPLICANT, REPRIMANDING A LICENSEE, SUSPENDING OR REVOKING A LICENSE, OR IMPOSING A PENALTY AGAINST A LICENSEE.

2. THE BOARD MAY IMPOSE DISCIPLINARY ACTION AGAINST A LICENSEE IF THE LICENSEE:

(A) COMMITS A FELONY OR OFFENSE INVOLVING MORAL TURPITUDE;

(B) VIOLATES THE PROVISIONS OF THIS ARTICLE;

(C) VIOLATES AN ORDER OF THE DEPARTMENT;

(D) VIOLATES REGULATIONS ADOPTED BY THE BOARD; OR

(E) FAILS TO COOPERATE WITH THE BOARD IN THE INVESTIGATION OF A COMPLAINT.

3. EXCEPT AS OTHERWISE PROVIDED, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER SUBDIVISION ONE OF THIS SECTION, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

4. THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH PROCEDURES SET FORTH BY THE DEPARTMENT OF EDUCATION.

5. IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED, FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND DETERMINE THE MATTER.

6. AN INDIVIDUAL AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, MAY TAKE AN APPEAL AS ALLOWED UNDER APPLICABLE POLICIES OF THE DEPARTMENT.

S 448-I. JUDICIAL REVIEW. THE ACTION OF THE DEPARTMENT IN GRANTING OR REFUSING TO GRANT OR TO RENEW A LICENSE UNDER THIS ARTICLE, OR IN REVOKING OR SUSPENDING SUCH A LICENSE, OR IMPOSING ANY FINE OR REPRIMAND ON THE HOLDER THEREOF OR REFUSING TO REVOKE OR SUSPEND SUCH LICENSE OR IMPOSE ANY FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEEDING BROUGHT UNDER AND PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES AT THE INSTANCE OF THE APPLICANT FOR SUCH LICENSE, THE HOLDER OF A LICENSE SO REVOKED OR SUSPENDED, THE PERSON FINED OR REPRIMANDED OR THE PERSON AGGRIEVED.

S 448-J. ENFORCEMENT. 1. THE COMMISSIONER SHALL HAVE THE POWER TO ENFORCE THE PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR ON HIS OR HER OWN INITIATIVE, TO INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY PERSON, FIRM, ASSOCIATION OR CORPORATION APPLYING FOR OR HOLDING A LICENSE AS A COMMON INTEREST COMMUNITY ASSOCIATION MANAGER, IF IN HIS OR HER OPINION SUCH INVESTIGATION IS WARRANTED. EACH SUCH APPLICANT OR LICENSEE SHALL BE OBLIGED, ON REQUEST OF THE COMMISSIONER TO SUPPLY SUCH INFORMATION AS MAY BE REQUIRED CONCERNING HIS OR HER OR ITS BUSINESS, BUSINESS PRACTICES OR BUSINESS METHODS, OR PROPOSED BUSINESS PRACTICES OR METHODS.

2. FOR THE PURPOSE OF ENFORCING THE PROVISIONS OF THIS ARTICLE AND IN MAKING INVESTIGATIONS RELATING TO ANY VIOLATION THEREOF, AND FOR THE PURPOSE OF INVESTIGATING THE CHARACTER, COMPETENCY AND INTEGRITY OF THE APPLICANTS OR LICENSEES HEREUNDER, AND FOR THE PURPOSE OF INVESTIGATING THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY APPLICANT OR LICENSEE, OR OF THE OFFICERS OR AGENTS THEREOF, THE COMMISSIONER SHALL HAVE THE POWER TO SUBPOENA AND BRING BEFORE THE OFFICER OR PERSON SO DESIGNATED ANY PERSON IN THIS STATE AND REQUIRE THE PRODUCTION OF ANY BOOKS OR PAPERS WHICH HE DEEMS RELEVANT TO THE INQUIRY, AND ADMINISTER AN OATH TO AND TAKE TESTIMONY OF ANY PERSON OR CAUSE HIS OR HER DEPOSITION TO BE TAKEN WITH THE SAME FEES AND MILEAGE AND IN THE SAME MANNER AS PRESCRIBED BY LAW FOR CIVIL CASES IN A COURT OF RECORD, EXCEPT THAT ANY APPLICANT OR LICENSEE OR OFFICER OR AGENT THEREOF SHALL NOT BE ENTITLED TO SUCH FEES AND/OR MILEAGE. ANY PERSON, DULY SUBPOENAED, WHO FAILS TO OBEY SUCH SUBPOENA WITHOUT REASONABLE CAUSE OR WITHOUT SUCH CAUSE REFUSES TO BE EXAMINED OR TO ANSWER ANY LEGAL OR PERTINENT QUESTION AS TO THE CHARACTER OR QUALIFICATION OF SUCH APPLICANT OR LICENSEE OR SUCH APPLICANT'S OR LICENSEE'S BUSINESS, BUSINESS PRACTICES AND METHODS OF SUCH VIOLATIONS, SHALL BE GUILTY OF A MISDEMEANOR.

3. IN ANY CRIMINAL PROCEEDING BEFORE ANY COURT, MAGISTRATE OR GRAND JURY, OR UPON ANY INVESTIGATION BEFORE THE DEPARTMENT FOR A VIOLATION OF ANY OF THE PROVISIONS OF THIS SECTION, THE COURT, MAGISTRATE OR GRAND JURY, OR THE SECRETARY, HIS OR HER DEPUTY OR OTHER OFFICER CONDUCTING THE INVESTIGATION, MAY CONFER IMMUNITY, IN ACCORDANCE WITH THE PROVISIONS OF THE CRIMINAL PROCEDURE LAW.

S 448-K. STAY OR SUSPENSION OF COMMISSIONER'S DETERMINATION. THE COMMENCEMENT OF AN ARTICLE SEVENTY-EIGHT PROCEEDING UNDER THE CIVIL PRACTICE LAW AND RULES, TO REVIEW THE ACTION OF THE COMMISSIONER IN GRANTING OR REFUSING TO GRANT, OR IN RENEWING OR REFUSING TO RENEW A LICENSE UNDER THIS ARTICLE, OR IN REVOKING OR SUSPENDING SUCH LICENSE, OR IMPOSING ANY FINE OR REPRIMAND SHALL STAY SUCH ACTION OF THE COMMISSIONER FOR A PERIOD OF THIRTY DAYS. SUCH STAY SHALL NOT BE EXTENDED FOR A LONGER PERIOD UNLESS THE COURT SHALL DETERMINE, AFTER A PRELIMINARY HEARING, THAT A STAY OF THE COMMISSIONER'S ACTION PENDING THE FINAL DETERMINATION OF FURTHER ORDER OF THE COURT SHALL NOT UNDULY INJURE THE INTERESTS OF THE PEOPLE OF THE STATE. THE DEPARTMENT SHALL BE GIVEN AT LEAST FORTY-EIGHT HOURS NOTICE PRIOR TO SAID PRELIMINARY HEARING.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.