

THE NEW RULES FOR CONDOMINIUM MANAGEMENT IN ONTARIO

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Chapter

SUMMARY OF MAJOR CHANGES TO CONDOMINIUM MANAGEMENT

- Creation of a not-for-profit Condominium Management Regulatory Authority of Ontario (CMRAO) overseeing the profession and complaints mechanism;
- Mandatory licensing requirements for Property Managers;
- Property Managers required to have a written contract when providing management services;
- The Act allows for the appointment of inspectors and would grant them inspection powers; and,
- The Act permits the adoption of a code of ethics.

**CONDOMINIUM MANAGEMENT
SERVICES ACT (CMSA)**

THE NEW REGULATORY AUTHORITY

- CMSA establishes Condominium Management Regulatory Authority of Ontario (CMRAO) to implement CMSA: www.cmrao.ca
- CMSA Implemented in Two Phases:
 - Licensing provisions come into force November 1, 2017
 - Remainder of CMSA to come into force on February 1, 2018

WHAT IS INCLUDED IN THE CMSA?

- **Licensing**
- **Transition**
- **Exemptions**
- **Regulation of Licensees**
- **Complaints**

PART 1 - LICENSING

- Exemptions
- Types of Licenses
 - Limited License
 - General License
 - Condominium Management Providers
 - Requires a Principal Condominium Manager
- Education Requirements
- Appeals, Expiration and Renewal

CONDOMINIUM MANAGEMENT SERVICES

■ Section 34:

- “No person shall provide condominium management services unless licensed as a condominium management provider or as a condominium manager”

■ Section 1:

- “condominium management services” means any of the following services provided to or on behalf of a condominium corporation:
 1. Collecting or holding contributions to the common expenses or other amounts levied by, or payable to, the corporation.
 2. Exercising delegated powers and duties of the corporation or its board of directors, including,
 - i. making payments to third parties on behalf of the corporation,
 - ii. negotiating or entering into contracts on behalf of the corporation, or
 - iii. supervising employees or contractors hired or engaged by the corporation,but does not include an activity excluded by the regulations

EXEMPTIONS

- Paralegals and lawyers
- Architects
- Public accountants
- Certified General Accountants
- Certified Management Accountants
- Chartered Accountants
- Engineers
- Insurance brokers
- Persons appointed as a receiver under the Courts of Justice Act
- Banks, loan and trust corporations, or credit unions
- Persons who conduct reserve fund studies under the Condominium Act
- Inspectors appointed under the Condominium Act
- Administrators appointed under the Condominium Act
- Directors of condominium corporations, unless the director is also providing condominium management services and receiving compensation or reward for those services
- Persons who only provide repair and maintenance services to a condominium corporation, including landscaping and cleaning services.

ADDITIONAL EXEMPTIONS FOR COLLECTING COMMON EXPENSES

- Certain individuals would be exempt from licensing requirements, but only for the purposes of collecting or holding contributions to the common expenses, and only if the individual promptly after receiving the money, delivers the money to the condominium corporation or a licensed condominium manager.
- Examples could include:
 - Security guards
 - Other individuals (for example, superintendents, office assistants, etc.) employed by a condominium management provider or a condominium corporation or who acts on behalf of a condominium corporation, if the individual has been authorized in writing to collect or hold those contributions.

TYPES OF LICENSEES

- Limited License:
 - Deemed limited licensee
 - Limited licensee
- General License
 - Deemed transitional general licensee
 - Transitional general licensee
 - General licensee
- Supervising licensee
 - Supervising licensee means a *general licensee*, a *transitional general licensee* or a *deemed transitional general licensee* who supervises a limited licensee or a deemed limited licensee
- Condominium Management Provider
 - Deemed license

LIMITED VERSUS GENERAL LICENSEE

■ Limited Licensees

- Less than 2 years of “demonstrated experience” in providing condo management services to a client
- Will have a deemed license if provided services to a client within the 90 days immediately before coming into force of CMSA
- Automatic limits on limited licensee’s activities (i.e. can’t sign status certificates) and must be supervised by a general licensee

■ General Licensees

- More than 2 years of “demonstrated experience” in providing condo management services to a client
- Will have a deemed transitional license if provided services to a client within the 90 days immediately before coming into force of CMSA
- Must complete the educational and examination requirements in the regulations to be entitled to a general license

EXPIRATION OF DEEMED LICENSES

- Condominium Managers will have a deemed limited license or a deemed transitional general license if the condominium manager provided services to a client within the 90 days immediately before coming into force of CMSA
- You must seek an extension or apply for another type of license within 90 days of Section 34 coming into force
- Deemed licenses will expire on **January 29, 2018**

LIMITED LICENSES

■ Application Requirements :

- At least 18 years of age;
- Provide the registrar with the applicant's complete legal name and the name the applicant requests to be licensed (can be a business name registered under the *Business Names Act*);
- Completed application form;
- Pay the established fee;
- Police record check (dated within the last 6 months); and
- Successful completion of the educational and examination requirements for a limited licence, if any

■ Conditions:

- Must be supervised by a general licensee
- Approval of Supervisor Required before:
 - Entering into contracts and agreements
 - Managing, controlling or disbursing general funds of over \$500; and
 - Giving anything to an owner or mortgagee
- Cannot be undertaken by a limited licensee:
 - Signing status certificates; and
 - Managing, controlling or disbursing the reserve fund account

GENERAL LICENSES

■ Application Requirements for a General Licence

- Hold a limited licence;
- Provide the registrar with the applicant's complete legal name and the name the applicant requests to be licensed (can be a business name registered under the *Business Names Act*);
- Completed application form;
- Pay the established fee;
- Police record check (dated within the last 6 months);
- Successful completion of the educational and examination requirements for a general licence; and
- Completion of at least two years of work experience under the supervision of one or more general licensees

■ Required work experience to obtain a general licence:

- Plan and participate in a client's board of director meetings;
- Plan and participate in meetings of owners, including at least one annual general meeting;
- Participate in the preparation of a budget for a condominium corporation including a presentation of the budget to the client's board of directors;
- Interpret and present financial statements to the client's board of directors;
- Prepare and present reports to the client's board of directors; and
- Oversee the maintenance or repair of units, common elements or client's assets, if any.

LICENSING FOR CONDOMINIUM MANAGEMENT PROVIDERS

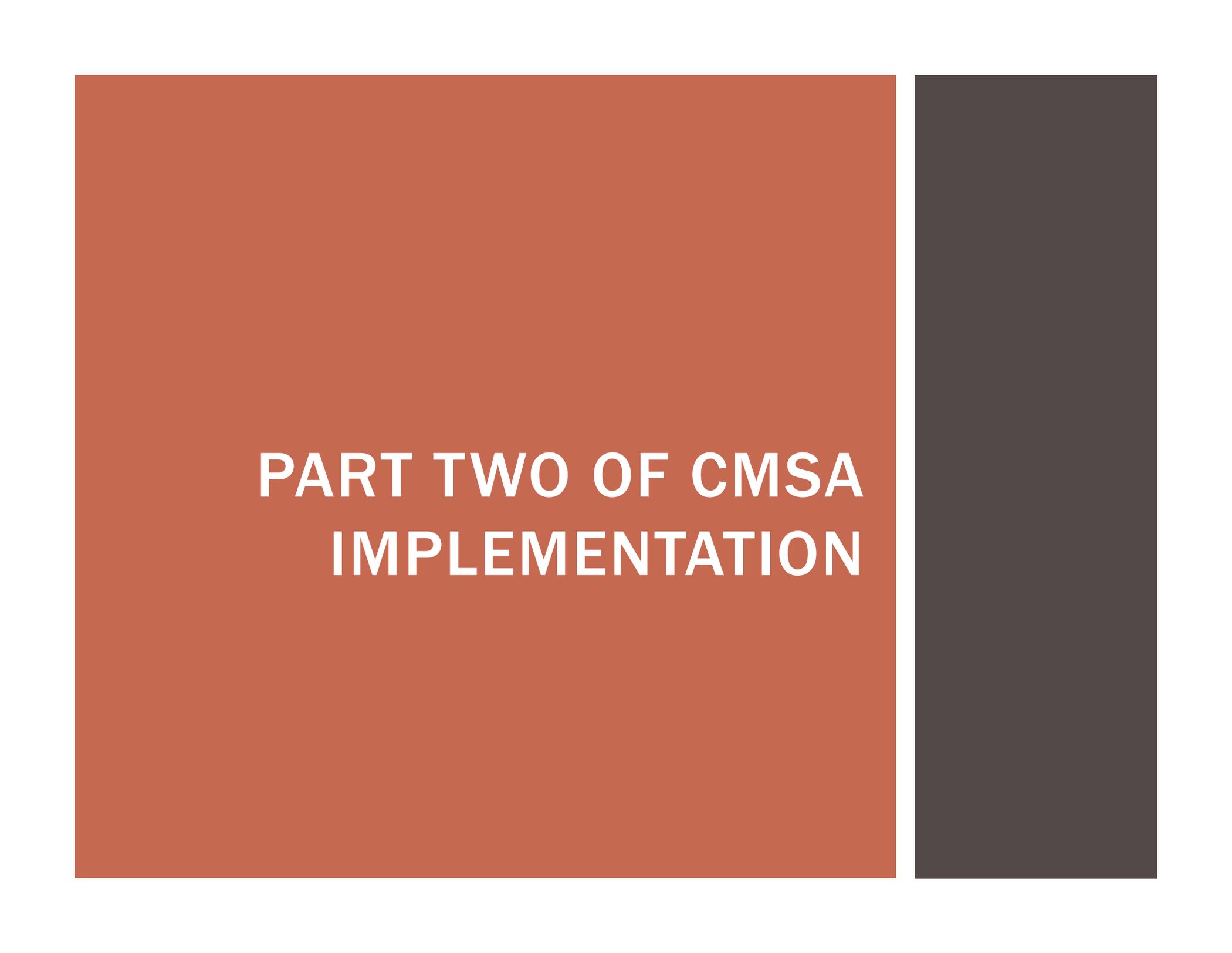
- A corporation, partnership, sole proprietor, association or other organization or entity seeking to provide condominium management services in Ontario must apply for a condominium management provider licence.
- In addition to completing the application form and paying the fee, the applicant must designate a principal condominium manager (“PCM”).
- The PCM must hold a general licence and must have successfully completed educational requirements for a PCM, if any, as specified by the Minister or registrar

EDUCATION REQUIREMENTS

- Currently no education requirements for limited licenses
- During the transition period, to qualify for a General Licence, individuals will require more than two years of work experience as a condominium manager and:
 - Have successfully completed the ACMO's RCM Exam OR the four ACMO courses developed OR the challenge exams
 - The four ACMO courses are:
 - Condominium Law
 - Physical Building Management
 - Financial Planning for Condominium Managers
 - Condominium Administration and Human Relations
- ACMO is, and will remain, separate and distinct from the CMRAO

APPEALS AND RENEWAL

- Appeals of Registrar's decision regarding CMSA licence
 - Registrar must notify an applicant or licensee if the Registrar proposes to refuse; suspend; revoke or apply conditions to a license or a renewal
 - Applicant or licensee can request a hearing within **15 days** the request must be in writing and sent to Registrar and the Licence Appeal Tribunal
- Regulations contain limitations on renewal and re-application
 - Transitional general licensee may not apply for a renewal of the licence or reapply for the licence if more than **three years** have passed since the licence was first issued to the licensee



PART TWO OF CMSA IMPLEMENTATION

REGULATION OF LICENSEES

1. Certificate of License
2. Licensee Information
3. Employment
4. Proxies
5. Conflicts of Interest and Code of Ethics
6. Insurance
7. Records
 - a) Retention of Business Records
 - b) Transfer of client condominium corporation Records
8. Public Information on Licensees

CERTIFICATE OF LICENCE

Proof of Licence

While providing condominium management services, a licensee must carry the licence and, upon request of any person, produce it for inspection.

A condominium management provider who is issued a certificate of licence must keep a paper form of it at its principal place of business as well as any other place that it carries on business.

LICENSEE INFORMATION

Address for Service

- A licensee must maintain an Ontario address for service.

Changes to Information

- If there are any changes in the information the licensee provided to obtain a licence, the licensee must notify the registrar of the change in writing within 5 days.
- If a licensee voluntarily ceases business or the licence is revoked, suspended or cancelled, the registrar may require the licensee to promptly return the certificate of licence to the registrar using a form of delivery that provides proof of delivery.

EMPLOYMENT

Multiple Employers

- An individual licensee cannot be employed by more than one condominium management provider unless all condominium management providers consent in writing in a manner approved by the registrar.

Employment by a condominium corporation

- Except as prescribed by regulation, the Act requires condominium managers to be employed by a condominium management provider.
- General licensees may be employed directly by no more than three condominium corporations without being licensed as a condominium management provider.

CONFLICT OF INTEREST AND CODE OF ETHICS

- The Act requires a licensee, who has an interest in a contract or transaction to which the client is or will be a party, to disclose the nature and extent of the interest to the client in writing.
- For conflicts of interest that arise after the client enters into the contract or transaction, the proposed regulation would require a licensee to disclose such an interest to the client as soon as the licensee becomes aware of the interest
- The CMRAO may establish a Code of Ethics

INSURANCE

- Before entering into a proposed contract with a client to provide condominium management services, a licensee must disclose in the contract, in a clear, comprehensible and prominent manner, the type and amount of insurance coverage, if any, held by the condominium management provider and condominium manager.
- If a licensee does not have any insurance coverage, the licensee must disclose that fact in the contract in a clear, comprehensible and prominent manner, before entering into a contract to provide condominium management services.
- A licensee must notify the client within 14 days if the licensee's insurance coverage changes or ceases during the term of the contract.

PROXIES

- Under the Act, a licensee cannot solicit proxies for a meeting of owners if the subject matter of the meeting includes: matters directly related to the licensee, the election or removal of at least one of the client's directors, or any other prescribed matter.
- “Solicit” means petitioning for, or trying to directly obtain, a proxy for a meeting of owners but would not include:
 - Collecting or holding proxies or providing a location to collect or hold proxies;
 - Notifying or reminding owners or mortgagees to submit proxies if they are unable to attend a meeting of owners;
 - Making information available on how to submit a proxy;
 - Providing proxy forms as part of anything that a client gives to owners or mortgagees; or
 - Providing proxy forms to owners or mortgagees on request.

RECORDS: RETENTION OF BUSINESS RECORDS

- A licensee would be required to retain the following records and documentation for at least 6 years:
 - documentation of a licensee's educational; examination; and continuing training requirements;
 - documentation of a limited licensee's work experience required for a general licence;
 - documentation of the required supervision of a limited licensee;
 - documentation of consent allowing the licensee to work for multiple condominium management providers;
 - documentation of all disclosures that the licensee is required to make to a client;
 - employment records related to the employment of licensees by one or more condominium management providers;
 - every contract that a licensee enters into with a condominium corporation, including related documentation;
 - documentation of delegation of authority to an employee of the licensee to hold or collect money on behalf of a client condominium corporation;
 - any other notice or record the licensee is required to keep under the Act or regulations.

Storage of Records

- A licensee may only keep records at a dwelling if the licensee has received approval from the registrar to do so.

RECORDS: TRANSFER OF CLIENT CONDOMINIUM CORPORATION RECORDS

- The Act requires a licensee to immediately transfer to the client all documents and records relating to the client upon termination of a contract for condominium management services.
- The regulations require a licensee to transfer all documents and records relating to the condo corporation within 10 days.
- For documents and records that do not yet exist but the licensee is required to create under the contract for condominium management services, a licensee would have one month to create and transfer the records to the licensee's former client.
- The Act authorizes a licensee to make and retain copies of documents and records for purposes relating to the contract.

PUBLIC INFORMATION ON LICENSEES

- CMRAO will make prescribed information available to the public without charge on the administrative authority's website and at least one other place the registrar considers appropriate
- CMRAO has the discretion to make any other information available to the public if it would assist in protecting the public. However, financial information relating to a person or business that is reasonably expected to be kept confidential will not be made available to the public.
- CMRAO would not be authorized to disclose the information described above in bulk except as required by law or to a law enforcement agency.

COMPLAINTS AND DISCIPLINE PROCESS

- In handling complaints, the Registrar may do any of the following, as appropriate:
 1. Attempt to mediate or resolve the complaint.
 2. Give the licensee a written warning that if the licensee continues with the activity that led to the complaint, action may be taken against the licensee.
 3. Require the principal condominium manager of the licensee to take further educational courses if the licensee is a condominium management provider.
 4. Require the licensee to take further educational courses if the licensee is a condominium manager.
 5. Refer the matter, in whole or in part, to the discipline committee.
 6. Suspend, revoke or impose conditions (subject to LAT appeals).
 7. Take further action as is appropriate in accordance with this Act.

QUESTIONS?