

EXEMPTION EXCLUDES KENTUCKY ASSOCIATION MANAGERS FROM REAL ESTATE COMMISSION'S JURISDICTION

The 2009 Kentucky Legislative session closed with the passage of landmark legislation.

The legislation was included as an amendment to HB [401](#), a bill introduced by the Kentucky Real Estate Commission (KREC). It excludes community association managers and the management of condominium, townhome, and homeowner associations from the jurisdiction of the KREC. Signed by the governor March 20, 2009 and officially effective July 1st, 2009, the amendment became law as section KRS 324.2812:

324.2812 Limitation of commission's jurisdiction.

Nothing in this chapter or the administrative regulations promulgated under the authority of this chapter shall extend the jurisdiction of the Kentucky Real Estate Commission to community association managers and the management or business activities of not-for-profit community associations, which includes townhouse, condominium, homeowner, or neighborhood associations.

Effective: June 25, 2009

History: Created 2009 Ky. Acts ch. 58, sec. 15, effective June 25, 2009.

[KREC v. CMA](#)

In 2007, the KREC sued Community Management Associates (CMA), LLC, AAMC® in an effort to claim jurisdiction of community association managers under the definition of "property management." Such action would have meant that community association managers were required to have a Real Estate Brokers License.

CMA is a community association management services company providing services for more than 20 communities in the state. CMA was served by the KREC with notice that CMA was in violation of state statutes that required a company engaged in "property management" to hold a real estate brokerage license.

CMA maintained that both the Commission's training manual and the regulations promulgated related to "Real Estate Brokers and Salesmen" focused on the regulation of "management" of property related to the purchase, sale, or rental of property. Additionally, concurrent with the KREC-issued notice, the state's Bar Association and community management companies were working on introducing a state condominium act to address issues raised by the KREC. As such, CMA argued that the KREC and the underlying statutes did not contemplate jurisdiction over the management of not-for-profit community association corporations nor as being applicable to professional community association managers.

CMA filed an administrative appeal with the KREC, and L. Thomas Richards, President of Community Management Associates, with the help of a [CAI amicus](#) brief, defeated the KREC in Louisville's 11th Circuit Court.

HB 401

As originally drafted, the KREC would have had the power to charge, levy a fine, and determine the guilt of any person, business, business entity, or association who the KREC believed was performing Real Estate brokerage activities without a license. This legislation could have allowed the KREC to target individual homeowner and condominium associations, claiming that they needed to employ a Realtor to manage their association. The KREC could also have treated builders who managed their own developments the same way.

The exemption language was the result of industry's multiple discussions and negotiations with the President of the Kentucky Association of Realtors and the Chair and key staff of the Kentucky Real Estate Commission. Much critical work was done in the last few days before the session ended. An important contributing factor to the acceptance of the exemption language was due to the KREC final judgment and order: HB 401 passed unanimously both the Senate (38 - 0) and the House (86 - 0) with industry's amendment (the exemption language).

This landmark legislation paved the way for the Kentucky Chapter's efforts to expand the professionalism of the community association management industry throughout the state.

For more information about other Kentucky legislative developments, please go to the Chapter's legislation [section](#), or contact Tom Richards, CMCA[®], AMS[®], PCAM[®], the Kentucky Chapter President, at: tom@cmaky.com.