

OCCUPATIONAL CODES

**BUILDING OFFICIALS AND INSPECTORS REGISTRATION
ACT
Act 54 of 1986**

AN ACT to regulate and register building officials, plan reviewers, building inspectors, electrical inspectors, mechanical inspectors, and plumbing inspectors; to prescribe the powers and duties of the state construction code commission; to create a building officials advisory board; to require the approval of educational and training programs for building officials, plan reviewers, and inspectors; to provide for the establishment and disposition of fees; to provide for the promulgation of rules; and to prescribe penalties.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

The People of the State of Michigan enact:

338.2301 Short title.

Sec. 1. This act shall be known and may be cited as the “building officials and inspectors registration act”.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2302 Definitions.

Sec. 2. As used in this act:

- (a) “Adopted” means a properly passed rule or ordinance.
- (b) “Advisory board” means the building officials advisory board created pursuant to section 3.
- (c) “Approved” means reviewed and found acceptable by the commission.

- (d) “Building official” means a construction code enforcement person working as an inspector, or plan reviewer, or actively engaged in the administration and enforcement of adopted building, electrical, mechanical, or plumbing codes, or any combination of these codes.
- (e) “Code” means the state construction code provided for in section 4 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1504 of the Michigan Compiled Laws, or a part of that code which is of limited application, and includes a modification of or amendment to the code, or a nationally recognized model building code or other nationally recognized model code adopted by a governmental subdivision pursuant to section 8 of the state construction code act of 1972, being section 125.1508 of the Michigan Compiled Laws.
- (f) “Commission” means the state construction code commission as established in section 3 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1503 of the Michigan Compiled Laws.
- (g) “Education or training program” means formal or informal courses, seminars, correspondence programs, and other teaching aids for building officials, plan reviewers, and inspectors which have been approved by the commission.
- (h) “Enforcing agency” means an enforcing agency as defined in section 2 of the construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1502 of the Michigan Compiled Laws.
- (i) “Inspector” means the person responsible for the administration and enforcement of the construction of buildings, structures, or appurtenances under the requirements of the applicable building, electrical, mechanical, or plumbing code administered and enforced within the jurisdiction of the employing enforcing agency employing the person.

(j) “Practical construction experience” means experience in construction related trades or code administration and enforcement which is found to be acceptable to the commission.

(k) “Plan reviewer” means a person engaged in the practice of examining construction documents for the purpose of determining compliance with applicable codes.

(l) “Provisional registration” means a building official, plan reviewer, or inspector who is registered subject to attaining the amount of training, education, and experience required by the appropriate board and the commission.

(m) “Registered” means a building official, plan reviewer, or inspector who is registered under this act.

(n) “Test” means a method of determining the qualifications of a person seeking registration as a building official, plan reviewer, or inspector under this act. Tests may be written, oral, practical, or a combination of written, oral, and practical. Completion of educational or training programs which have been approved by the commission may be substituted for appropriate tests or portions of tests.

(o) “Code change cycle” means the publication by a nationally recognized code writing body of a new edition of a basic code which includes all approved changes to the basic code since the previous edition. Code change cycle does not include changes to the basic code approved and published in annual supplements to the code.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2303 Building officials advisory board; creation; purpose; appointment, qualifications, and terms of members.

Sec. 3. (1) The building officials advisory board is created in the department of labor to assist the commission in establishing standards and criteria for the training and qualifications of building officials.

(2) The advisory board shall consist of 9 members appointed by the commission. Of those members first appointed, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years. The advisory board shall consist of the following:

(a) A building official who enforces the building officials and code administrators basic building code.

(b) A building official who enforces the uniform building code.

(c) A building official who enforces the Michigan building code.

(d) Two members of the general public, 1 of whom shall be a person with 1 or more disabilities.

(e) A registered architect or engineer.

(f) A building contractor.

(g) A building trades journey worker from a recognized apprentice course.

(h) A representative of small business.

(3) Of the 3 building officials appointed pursuant to subsection (2)(a), (b), and (c), 1 shall represent a county, 1 shall represent a city, and 1 shall represent a township or village.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986 ;-- Am. 1998, Act 50, Imd. Eff. Mar. 30, 1998

338.2304 Enforcement of construction codes; participation of boards; review and approval of educational and training programs, tests, and instructors; recommendation of criteria.

Sec. 4. (1) The commission shall promote effective and uniform enforcement of construction codes in the state by improving the competence of building officials, plan reviewers, and inspectors.

(2) The advisory board, barrier free design board, the electrical administrative board, the board of mechanical rules, and the state plumbing board shall participate in and work with the commission to establish both of the following:

(a) Minimum training and experience standards, qualifications, and classifications of responsibility applicable to persons engaged in the enforcement of codes, and plan reviews.

(b) Minimum criteria for the approval of educational or training programs and tests.

(3) The commission may review and approve prepared educational and training programs, tests, and instructors. The examination and evaluation of training and educational programs, instructors, and tests shall include, but not be limited to:

(a) Construction code administration.

(b) Specialty aspects of code program parts, including all of the following:

(i) Prohibited appliances.

(ii) Premanufactured units.

(iii) Approval of materials, products, and methods.

(iv) Barrier free design.

(v) Energy conservation.

(c) Inspection techniques.

- (d) Communication skills.
- (e) Human and public relations.
- (f) Report writing.
- (g) Plans and specifications reading.
- (h) Pertinent laws, ordinances, rules, and policies.
- (i) Construction practices.

(4) If the commission finds that the proposed educational or training courses or programs are acceptable under minimum requirements established under this section, the commission shall give approval to the courses or programs for a limited period of time and with appropriate qualifications as the commission prescribes.

(5) A board listed in section 4(2) shall recommend to the commission criteria for approval which relate to the board's function and are required by section 4(2). The commission shall give consideration to any submission by a board, but the commission shall have final responsibility for the approval of training standards and programs.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2305 Rules.

Sec. 5. The commission shall promulgate rules for the administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

Admin Rule: R 408.30001 et seq. of the Michigan Administrative Code.

338.2306 Building official, plan reviewer, or inspector; registration; application.

Sec. 6. (1) Application for registration as a building official, plan reviewer, or inspector shall be made to the appropriate board listed in section 4(2) and to the commission along with the fee prescribed in section 13.

(2) Any person who on the effective date of this act has been engaged in the business of a building official, plan reviewer, or inspector for a period of 3 years shall, upon furnishing the appropriate board listed in section 4(2) with satisfactory evidence of having been so engaged, be registered if the person makes application to the commission within 6 months after the effective date of this act, and pays the fee prescribed in section 13.

(3) Any person who, on the effective date of this act, has been engaged in the business of a building official, plan reviewer, or inspector for a period of less than 3 years shall, upon furnishing the board with satisfactory evidence of having been so engaged, be provisionally registered if the person makes application to the commission within 6 months after the effective date of this act and pays the fee prescribed in section 13.

(4) Any person who, on the effective date of this act, has been engaged in the business of a building official, plan reviewer, or inspector for 3 of the 5 years immediately preceding the date of application shall, upon furnishing the appropriate board listed in section 4(2) with satisfactory evidence of having been so engaged, be registered, if the person makes application to the commission and pays the fee prescribed in section 13.

(5) The commission may issue an initial registration for a period of more or less than 3 years for the purpose of allowing subsequent registration renewal to coincide with the code change cycle.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2307 Renewal of registration.

Sec. 7. A registered building official, plan reviewer, or inspector shall renew the registration at periods of not less than 3 years after the date of

initial issue. The renewal shall coincide with the code change cycle of the code which the person is enforcing in that jurisdiction. Reregistration or renewal of an initial registration or provisional registration shall be based upon a determination by the appropriate board listed in section 4(2) of the applicant's familiarity with changes to the applicable codes administered and enforced within the jurisdiction of the enforcing agency employing the applicant and pertinent laws, and satisfactory evidence of attending local in-service training and education programs on an ongoing basis.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2308 Other requirements not superseded.

Sec. 8. This act does not supersede the requirements applicable to inspectors contained in Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, or Act No. 217 of the Public Acts of 1956, being sections 338.881 to 338.892 of the Michigan Compiled Laws.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2309 Revocation or suspension of registration; enforcing agency as party in interest; hearings.

Sec. 9. Upon written notice of hearing, the commission may revoke or suspend the registration of any building official, plan reviewer, or inspector if there is sufficient evidence showing that the registered person has violated this act or rules promulgated pursuant to this act, in the performance of his or her duties. In any proceeding under this act, the enforcing agency which employs the person may appear as a party in interest. All hearings shall be conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2310 Conflicts of interest; inspection of own work in governmental subdivision prohibited; additional requirements and restrictions; construction of act.

Sec. 10. (1) Performing instructional duties for educational purposes and providing contractual inspection and consulting services in construction code enforcement shall not be considered conflicts of interest.

(2) An inspector shall not be permitted to inspect his or her own work in a governmental subdivision. As used in this subsection and subsection (3), "governmental subdivision" means governmental subdivision as defined in section 2(1)(t) of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1502 of the Michigan Compiled Laws.

(3) A governmental subdivision may establish additional requirements and restrictions in the selection and hiring of construction code enforcement officials, inspectors, and plan reviewers.

(4) This act shall not be construed to limit or restrict the type of internal administrative organization an enforcing agency may choose, or to limit or otherwise affect the authority of the enforcing agency to dismiss or suspend a building official, inspector, or plan reviewer at its discretion.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2311 Registration and reregistration without examination.

Sec. 11. Upon payment to the commission of the fee prescribed in section 13, the commission shall register and reregister without examination applicants licensed or certified under the laws of other states or national organizations having requirements for certified or licensed building officials, inspectors, or plan reviewers which the commission determines are equivalent to the requirements of this state for the purpose of establishing reciprocity privileges for building officials, inspectors, and plan reviewers.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2312 Registration required; provisional registration; notice to applicants not qualified for registration; appeal.

Sec. 12. (1) Subject to subsection (2), after 1 year after the effective date of this act, a person shall not be appointed or employed as a building official, inspector, or plan reviewer by an enforcing agency, unless the person is registered under this act and the rules promulgated under this act.

(2) Any person who, after the effective date of this act, becomes employed by a governmental subdivision as a building official, plan reviewer, or inspector shall within 30 days of employment make application to the commission for provisional registration. Upon furnishing the board with satisfactory evidence of being so employed by a governmental subdivision and payment of the fees prescribed in section 13, the person shall be provisionally registered.

(3) If the commission determines that an applicant for registration does not qualify for registration, the applicant shall be notified of that fact in writing and may appeal an adverse decision in the manner provided by Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

338.2313 Registration fees.

Sec. 13. (1) The commission shall charge fees for registration of building officials, inspectors, and plan reviewers and for the examination and evaluation of training and educational programs and courses. An applicant for registration shall pay a registration fee of \$10.00 a year to the commission for each year the registration covers.

(2) Fees established by the commission shall bear a reasonable relation to the cost for conducting training and educational programs and courses.

(3) Fees received by the commission pursuant to this act shall be deposited in the state construction code fund created by section 22 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1522 of the Michigan Compiled Laws.

History: 1986, Act 54, Imd. Eff. Mar. 17, 1986

OCCUPATIONAL CODES

OCCUPATIONAL CODE (EXCERPTS)
Act 299 of 1980

An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990 ;-- Am. 1993, Act 93, Imd. Eff. July 13, 1993

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299

339.105 Definitions; L to S.

Sec. 105. (1) "License" means the document issued to a person under this act which will enable that person to use a designated title and practice an occupation, which practice would otherwise be prohibited by this act. License includes a document issued by the department which permits a school, institution, or person to offer training or education in an occupation or which permits the operation of a facility, establishment, or institution in which an occupation is practiced. License includes a permit or approval.

(2) "Licensee" means a person who has been issued a license under this act.

- (3) "Limitation" means a condition, stricture, constraint, restriction, or probation attached to a license or registration relative to the scope of practice including the following:
- (a) A requirement that the licensee or registrant perform only specified functions of the licensee's or registrant's occupation.
 - (b) A requirement that the licensee or registrant perform the licensee's or registrant's occupation only for a specified period of time.
 - (c) A requirement that the licensee or registrant perform the licensee's or registrant's occupation only within a specified geographical area.
 - (d) A requirement that restitution be made or certain work be performed before a license or registration is issued, renewed, or reinstated.
 - (e) A requirement that a financial statement certified by a person licensed as a certified public accountant be filed with the department at regular intervals.
 - (f) A requirement which reasonably assures a licensee's or registrant's competence to perform the licensee's or registrant's occupation.
 - (g) A requirement that all contracts of a licensee or registrant be reviewed by an attorney.
 - (h) A requirement that a licensee or registrant have on file with the department a bond issued by a surety insurer approved by the department or cash in an amount determined by the department.
 - (i) A requirement that a licensee or registrant deposit money received in an escrow account which can be disbursed only under certain conditions as determined by the licensee or registrant and another party.
 - (j) A requirement that a licensee or registrant file reports with the department at intervals determined by the department.

- (4) "Occupation" means a field of endeavor regulated by this act.
- (5) "Person" means an individual, sole proprietorship, partnership, association, corporation, common law trust, or a combination of those legal entities. Person includes a department, board, school, institution, establishment, or governmental entity.
- (6) "Physical dominion" means control and possession.
- (7) "Physician" means that term as defined in section 17001 and section 17501 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.17001 and 333.17501 of the Michigan Compiled Laws.
- (8) "Probation" means a sanction which permits a board to evaluate over a period of time a licensee's or registrant's fitness to practice an occupation regulated by this act.
- (9) "Public access" means the right of a person to view and copy files pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.
- (10) "Registrant" means a person who is registered under this act.
- (11) "Registration" means the document issued to a person under this act which will enable that person to use a designated title, which use would be otherwise prohibited by this act.
- (12) "Rule" means a rule promulgated under this act and pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.
- (13) "State" means the District of Columbia or a commonwealth, state, or territory of the United States.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

ARCHITECTS

Article 20

339.2001 Definitions.

Sec. 2001. As used in this article:

- (a) “Architect” means a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of architectural design, acquired by professional education and practical experience, is qualified to engage in the practice of architecture.
- (b) “Firm” means a sole proprietorship, partnership, corporation, or limited liability company through which a person licensed under this article offers or provides a service to the public.
- (c) “Person” means a natural person notwithstanding section 105(5).
- (d) “Person in responsible charge” means a person licensed under this article who determines technical questions of design and policy; advises the client; supervises and is in responsible charge of the work of subordinates; is the person whose professional skill and judgment are embodied in the plans, designs, plats, surveys, and advice involved in the services; and who supervises the review of material and completed phases of construction.
- (e) “Practice of architecture” means professional services, such as consultation, investigation, evaluation, planning, design, or review of material and completed phases of work in construction, alteration, or repair in connection with a public or private structure, building, equipment, works, or project if the professional service requires the application of a principle of architecture or architectural design.

(f) “Practice of professional surveying” means providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and the utilization and development of these facts and interpretations into an orderly survey map, plan, report, description, or project. The practice of professional surveying includes all of the following:

(i) Land surveying that is the surveying of an area for its correct determination or description for its conveyance, or for the establishment or reestablishment of a land boundary and the designing or design coordination of the plotting of land and the subdivision of land.

(ii) Geodetic surveying that includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry.

(iii) Utilizing and managing land information systems through establishment of datums and local coordinate systems and points of reference.

(iv) Engineering and architectural surveying for design and construction layout of infrastructure.

(v) Cartographic surveying for making maps, including topographic and hydrographic mapping.

(g) “Practice of professional engineering” means professional services, such as consultation, investigation, evaluation, planning, design, or review of material and completed phases of work in construction, alteration, or repair in connection with a public or private utility, structure, building, machine, equipment, process, work, or project, if the professional service requires the application of engineering principles or data.

(h) “Principal” means a sole proprietor, partner, the president, vice-president, secretary, treasurer, or director of a corporation, or a member or manager of a limited liability company.

(i) “Professional engineer” means a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in the practice of professional engineering.

(j) “Professional surveyor” means a person who, by reason of knowledge of law, mathematics, physical sciences, and techniques of measuring acquired by professional education and practical experience, is qualified to engage in the practice of professional surveying.

(k) “Services” means professional service offered or provided by an architect in the practice of architecture, a professional engineer in the practice of professional engineering, or a professional surveyor in the practice of professional surveying.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992 ;-- Am. 1997, Act 122, Imd. Eff. Nov. 3, 1997 ;-- Am. 1998, Act 218, Imd. Eff. July 1, 1998

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299

339.2002 Boards of architects, professional engineers, and professional surveyors; creation; membership; terms; resignation, disability, or removal for cause.

Sec. 2002. (1) The boards of architects, of professional engineers, and of professional surveyors are created.

(2) The board of architects consists of 5 architects, 1 professional engineer who is a member of the board of professional engineers, and 1 professional surveyor who is a member of the board of professional surveyors. Two members of the board shall represent the general public.

(3) The board of professional engineers consists of 5 professional engineers, 1 architect who is a member of the board of architects, and 1 professional surveyor who is a member of the board of professional surveyors. Two members of the board shall represent the general public.

(4) The board of professional surveyors consists of 5 professional surveyors, 1 professional engineer who is a member of the board of professional engineers, and 1 architect who is a member of the board of architects. Two members of the board shall represent the general public.

(5) Of the initial members of the board of architects, the terms of 3 of the members, including 2 of the members who are licensed architects and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed architect shall be 3 years; the term of 1 of the members who is a licensed architect shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed architect and 1 of the members of the general public, shall be 1 year. The term of the member who is a licensed professional engineer shall coincide with that member's term on the board of professional engineers. The term of the member who is a licensed professional surveyor shall coincide with that member's term on the board of professional surveyors.

(6) Of the initial members of the board of professional engineers, the terms of 3 of the members, including 2 of the members who are licensed professional engineers and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed professional engineer shall be 3 years; the term of 1 of the members who is a licensed professional engineer shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed professional engineer and 1 of the members of the general public shall be 1 year. The term of the member who is a licensed architect shall coincide with that member's term on the board of architects. The term of the member who is a licensed professional surveyor shall coincide with that member's term on the board of professional surveyors.

(7) Of the initial members of the board of professional surveyors, the terms of 3 of the members, including 2 of the members who are licensed

professional surveyors and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed professional surveyor shall be 3 years; the term of 1 of the members who is a licensed professional surveyor shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed professional surveyor and 1 of the members of the general public, shall be 1 year. The term of the member who is a licensed professional engineer shall coincide with that member's term on the board of professional engineers. The term of the member who is a licensed architect shall coincide with that member's term on the board of architects.

(8) A licensee who serves on more than 1 board created under this article, and who resigns, is disabled, or is removed for cause by the governor from the board under which he or she is licensed, shall no longer represent that board on any other board created under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular Name: Act 299

339.2003 Joint meetings of boards.

Sec. 2003. A joint meeting of the boards created by this article shall be held at least once annually at a time and place determined by the department. Two or more of the boards created by this article may meet jointly at the call of the chairperson of a board created by this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2004 Architect, professional engineer, and land surveyor; licensing requirements.

Sec. 2004. (1) In order to be licensed as an architect, an individual shall meet all of the following:

(a) The requirements prescribed in section 2005(1).

(b) Pass an examination which tests the applicant's qualifications to practice architecture or provide equivalent proof of qualification acceptable to the department and the board.

(c) Be of good moral character.

(2) In order to be licensed as a professional engineer, an individual shall meet all of the following:

(a) The requirements prescribed in section 2005(2).

(b) Pass the engineering fundamentals and professional practice examinations or provide equivalent proof of qualification to practice professional engineering acceptable to the department and the board.

(c) Be of good moral character.

(3) In order to be licensed as a land surveyor, an individual shall meet all of the following:

(a) The requirements prescribed in section 2005(3).

(b) Pass the land surveying fundamentals and professional practice examinations or provide equivalent proof of qualification to practice land surveying acceptable to the department and the board.

(c) Be of good moral character.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2005 Architect, professional engineer, and professional surveyor; examination; requirements; frequency and results of examination; individual with mental or physical disability; completion of requirements for licensure.

Sec. 2005. (1) To be examined as an architect, an applicant shall meet all of the following requirements:

(a) Provide documentation of not less than 8 years of professional experience in architectural work satisfactory to the board of architects, including not more than 6 years of education.

(b) Provide evidence of completion of a first professional degree or further degree in architecture satisfactory to the board of architects.

(c) Provide not less than 5 references, 3 of which shall be references from licensed architects who have personal knowledge of the applicant's professional experience.

(2) In order to be examined as a professional engineer, an individual shall meet all of the following requirements for admission to the professional practice examination:

(a) Provide documentation of not less than 8 years of professional experience in engineering work acceptable to the board of professional engineers, including not more than 6 years of education.

(b) Provide evidence of completion of a baccalaureate degree in engineering from an accredited program or its equivalent, as determined by the board of professional engineers.

(c) Provide not less than 5 references, 3 of which shall be from professional engineers who have personal knowledge of the applicant's professional experience.

(3) In order to be examined as a professional surveyor, an individual shall meet all of the following requirements:

(a) For admission to the professional surveying fundamentals examination, an applicant shall provide an affidavit stating that a degree acceptable to the board shall be completed not later than 6 months after the date of the examination.

(b) For admission to the professional practice examination, an applicant shall provide all of the following:

(i) Documentation of not less than 8 years of professional experience in professional surveying satisfactory to the board of professional surveyors, including not more than 5 years of education.

(ii) Evidence of completion of a degree in professional surveying or a related degree with professional surveying courses acceptable to the board of professional surveyors.

(iii) Not less than 5 references, 3 of which shall be from licensed professional surveyors who have personal knowledge of the applicant's professional experience.

(4) The examination required by this article shall be given at least once a year.

(5) An examinee shall be notified in writing of the examinee's results on each part of the examination.

(6) Notwithstanding section 316(3), an individual with a mental or physical disability may be tested using special equipment, facilities, or assistance. However, the examination shall not be varied in form, content, or the format in which answers are submitted.

(7) All requirements for licensure shall be completed within 10 years after receipt of the application by the department. If the requirements are not completed within the 10-year period, the application shall be void.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992 ;-- Am. 1998, Act 90, Imd. Eff. May 13, 1998

Popular Name: Act 299

339.2006 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed section pertained to application for licensure.

Popular Name: Act 299

339.2007 Seal.

Sec. 2007. A licensee, upon being licensed, shall obtain a seal authorized by the appropriate board and bearing the licensee's name and the legend indicating either "licensed architect", "licensed professional engineer", or "licensed professional surveyor". However, a seal existing on the effective date of the 1991 amendatory act that amended this section with the legend "registered architect", "registered professional engineer", "registered land surveyor", or "licensed land surveyor" is acceptable if a seal is required under state law. A plan, specification, plat, or report issued by a licensee shall be sealed when filed with a public authority. A document shall not be sealed after the license of the licensee named on the document has expired or is suspended or revoked unless the license is renewed, reinstated, or reissued.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular Name: Act 299

339.2008 Sealing documents requiring governmental agency approval or record; projects involving overlapping of architecture and engineering professions; sealing documents not prepared by licensee prohibited.

Sec. 2008. (1) A plan, plat, drawing, map, and the title sheet of specifications, an addendum, bulletin, or report or, if a bound copy is submitted, the index sheets of a plan, specification, or report, if prepared by a licensee and required to be submitted to a governmental agency for approval or record, shall carry the embossed or printed seal of the person in responsible charge.

(2) If the overlapping of the professions of architecture and engineering is involved in a project, a licensed architect or licensed professional engineer who seals the plans, drawings, specifications, and reports may perform services in the field of the other practice if the services are incidental to the architectural or engineering project as a whole.

(3) A licensee shall not seal a plan, drawing, map, plat, report, specification, or other document not prepared by the licensee or under supervision of the licensee as the person in responsible charge.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2009 Renewal of license; requirement.

Sec. 2009. A demonstration of continuing professional competence shall be required for renewal of a license.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2010 Firm; practice of architecture, professional engineering, or professional surveying; approval of nonlicensed principal and principal's firm; report; person in responsible charge at each place of business; exception.

Sec. 2010. (1) A firm may engage in the practice of architecture, professional engineering, or professional surveying in this state, if not less than $\frac{2}{3}$ of the principals of the firm are licensees.

(2) However, a nonlicensed principal and the principal's firm shall apply for and receive an approval from the department to engage in the practice of architecture, professional engineering, or professional surveying, if the conduct of the firm and its principals comply with rules promulgated by the department.

(3) Upon request by the department, a firm shall report to the department the names and addresses of its principals, persons in responsible charge, unlicensed principals, and any other information the department considers necessary.

(4) A firm shall employ a person in responsible charge in the field of services offered at each place of business in this state where services are offered by the firm, except at a field office which provides only a review of construction.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular Name: Act 299

339.2011 Construction of public work involving architecture or professional engineering; requirements; exception.

Sec. 2011. (1) Except as otherwise provided in subsection (2), the state or a county, city, township, village, school district, or other political subdivision of this state shall not engage in the construction of a public work involving the practice of architecture or professional engineering unless all of the following requirements are met:

(a) The plans and specifications and estimates have been prepared by a licensed architect or licensed professional engineer.

(b) The review of the materials used and completed phases of construction is made under the direct supervision of a licensed architect or licensed professional engineer.

(c) Each survey of land on which the public work has been or is to be constructed is made under the supervision of a licensed professional surveyor.

(2) This section does not apply to a public work for which the contemplated expenditure for the completed project is less than \$15,000.00.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular Name: Act 299

339.2012 Persons exempted.

Sec. 2012. (1) The following persons are exempt from the requirements of this article:

(a) A professional engineer employed by a railroad or other interstate corporation, whose employment and practice is confined to the property of the corporation.

(b) A designer of a manufactured product, if the manufacturer of the product assumes responsibility for the quality of the product.

(c) An owner doing architectural, engineering, or surveying work upon or in connection with the construction of a building on the owner's property for the owner's own use to which employees and the public are not generally to have access.

(d) A person not licensed under this article who is planning, designing, or directing the construction of a detached 1- and 2-family residence building not exceeding 3,500 square feet in calculated floor area. For purposes of this subdivision, detached 1- and 2-family residence building does not include an adult foster care home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(e) A person who is licensed to engage in the practice of architecture, professional engineering, or professional surveying in another state while temporarily in this state to present a proposal for services.

(2) As used in this section:

(a) "Calculated floor area" means that portion of the total gross area measured to the outside surfaces of exterior walls intended to be habitable space.

(b) "Habitable space" means space in a building used for living, sleeping, eating, or cooking. Habitable space does not include a heater or utility room, a crawl space, a basement, an attic, a garage, an open porch, a balcony, a terrace, a court, a deck, a bathroom, a toilet room, a closet, a hallway, a storage space, and other similar spaces not used for living, sleeping, eating, or cooking.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992 ;-- Am. 2002, Act 495, Imd. Eff. July 3, 2002

Popular Name: Act 299

339.2013 Issuing license to person holding certificate of qualification or registration of another state or national council; equivalency; temporary license prohibited; review of application of individual seeking relicensure or reinstatement.

Sec. 2013. (1) The department, upon application, shall issue a license to a person who holds an appropriate certificate of qualification or registration issued by proper authority of a board of registration examiners of another state or national council acceptable to the department and the board, if the requirements for the registration of architects, professional engineers, or professional surveyors under which the certificate of qualification or registration was issued are determined to be equivalent by the appropriate board. A board under this article shall not issue a temporary license as provided under section 213.

(2) The appropriate board shall review the application of an individual who seeks relicensure or reinstatement 3 or more years after the expiration of the individual's most recent license if the individual does not meet the requirements for licensure in force at the time of application for relicensure or reinstatement.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular Name: Act 299

339.2014 Prohibited conduct; penalties.

Sec. 2014. A person is subject to the penalties set forth in article 6 who commits 1 of the following:

- (a) Uses the term “architect”, “professional engineer”, “land surveyor”, “professional surveyor”, or a similar term in connection with the person's name unless the person is licensed in the appropriate practice under this article.
- (b) Presents or attempts to use as the person's own the license or seal of another.
- (c) Attempts to use an expired, suspended, or revoked license.
- (d) Uses the words “architecture”, “professional engineering”, “land surveying”, “professional surveying”, or a similar term in a firm name without authorization by the appropriate board.

(e) Submits to a public official of this state or a political subdivision of this state for approval, a permit or a plan for filing as a public record, a specification, a report, or a land survey that does not bear 1 or more seals of a licensee as required by this article. This subdivision does not apply to a public work costing less than \$15,000.00 or a residential building containing not more than 3,500 square feet of calculated floor area. As used in this subdivision, “calculated floor area” means that term as defined in section 2012(2)(a).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1992, Act 103, Imd. Eff. Sept. 1, 1992 ;-- Am. 2002, Act 495, Imd. Eff. July 3, 2002

Popular Name: Act 229

FORESTERS

Article 21

339.2101 Definitions.

Sec. 2101. As used in this article:

(a) “Forester” means a person who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and practical experience, is qualified to engage in the practice of professional forestry.

(b) “Practice of professional forestry” means professional forestry services, including consultation, investigation, evaluation, planning, or responsible supervision of forestry interns or forest technicians when the professional service requires the application of forestry principles and techniques.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws. For transfer of powers and duties of the board of foresters from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the board of foresters, see E.R.O. No. 1996-2,

compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular Name: Act 299

339.2102 Board of foresters; creation; qualifications of members.

Sec. 2102. A board of foresters is created. A member of the board representing foresters shall have been engaged in the practice of professional forestry for at least 3 years.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2103 Certificate of registration as forester; qualifications.

Sec. 2103. A person shall receive a certificate of registration as a forester if the person graduates from an accredited university or college, has 2 or more years of experience in forestry work, and is of good moral character.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981

Popular Name: Act 299

339.2104 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed section pertained to application for registration.

Popular Name: Act 299

339.2105 Plan, map, specification, report or estimate; indorsement by registered forester.

Sec. 2105. A plan, map, specification, or report issued by a registered forester shall be indorsed with his or her name and certificate of registration number during the life of the certificate of registration. A registered forester shall not indorse a plan, specification, estimate, or map unless the registered forester actually prepared the plan, specification, estimate, or map or was in the actual charge of the preparation of the plan, specification, estimate, or map.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2106 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed section pertained to renewal of certificate of registration.

Popular Name: Act 299

339.2107 Registering applicant who is legally authorized forester in another state or country; equivalent requirements.

Sec. 2107. The department shall register an applicant who is a legally authorized forester in another state or country if the requirements of the state or country are considered by the board to be equivalent to the requirements of registration in this state.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2108 Use of title “registered forester.”

Sec. 2108. A person shall not use the title “registered forester” unless he or she is registered under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

LANDSCAPE ARCHITECTS

Article 22

339.2201 Definitions.

Sec. 2201. As used in this article:

(a) “Landscape architect” means a person qualified to practice landscape architecture as provided in this article.

(b) “Practice of landscape architecture” means:

(i) The performance of professional services such as consultation, investigation, research, planning, design, or responsible field observation in connection with the development of land areas where, and to the

extent that the dominant purpose of the services is the preservation, enhancement, or determination of proper land uses, natural land resources, ground cover and planting, naturalistic and aesthetic values, the settings and approaches to structures or other improvements, natural drainage, and the consideration and determination of inherent problems of the land relating to erosion, use and stress, blight, or other hazards.

(ii) The location and arrangement of tangible objects and features incidental and necessary to the purposes outlined in this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299

339.2202 Performing services described in MCL 339.2201(b)(i); construction of article.

Sec. 2202. (1) This article shall not preclude a registered landscape architect from performing any of the services described in section 2201(b)(i) in connection with the settings, approaches, or environment for buildings, structures, or facilities.

(2) This article shall not be construed as authorizing a landscape architect to engage in the practice of architecture, engineering, or land surveying as defined in article 20.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2203 Board of landscape architects; creation.

Sec. 2203. The board of landscape architects is created.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Compiler's Notes: For abolishment of the board of landscape architects and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-17, compiled at MCL 445.2023.

Popular Name: Act 299

339.2204 Applicant for registration as landscape architect; qualifications.

Sec. 2204. An applicant for registration as a landscape architect shall be of good moral character and shall pass a written examination developed by the department and the board. In addition, each applicant shall have had not less than 7 years of training and experience in the actual practice of landscape architecture. Satisfactory completion of each year up to 5 years of an accredited course in landscape architecture in an accredited school shall be considered as equivalent to a year of experience.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981

Popular Name: Act 299

339.2205 Completion of requirements for registration.

Sec. 2205. All requirements for registration shall be completed within 10 years after receipt of the application by the department. If the requirements are not completed within the 10-year period, the application shall be void.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2206, 339.2207 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed sections pertained to reexaminations and renewals.

Popular Name: Act 299

339.2208 Registration on individual basis.

Sec. 2208. Registration under this article shall be on an individual basis. The department shall not register a partnership, association, corporation, or a public agency under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2209 Issuing registration without examination to applicant registered or licensed in another state or country; equivalency.

Sec. 2209. The department may issue a registration without examination to an applicant who is legally registered or licensed as a landscape architect in any other state or country whose requirements for registration or licensure are at least substantially equivalent to the requirements of this state.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2210 Seal; plans, specifications, and reports filed with public authority; unlawful indorsement; penalties.

Sec. 2210. (1) Each landscape architect shall have a seal, approved by the department and the board, which shall contain the name of the landscape architect, the serial number of his or her certificate of registration and the legend "landscape architect, state of Michigan" and other words or figures as the department considers necessary. Plans, specifications, and reports prepared by the landscape architect or under his or her supervision shall be stamped with his or her seal when filed with a public authority.

(2) A landscape architect who indorses a document with his or her seal while his or her certificate of registration is not in full force and effect, or who indorses a document which the landscape architect did not actually prepare or supervise the preparation, is subject to the penalties prescribed in article 6.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2211 Using or advertising certain titles or descriptions.

Sec. 2211. A person shall not use or advertise any title or description tending to convey the impression that he or she is a landscape architect unless he or she is registered as provided in this article. This article does not restrict the use of the titles "landscape gardener", "landscape contractor", "landscape designer", or "landscape nursery man".

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

COMMUNITY PLANNERS

Article 23

339.2301 Definitions.

Sec. 2301. As used in this article:

(a) “Community” means a village, city, township, county, any other political subdivision of this state, this state, or a combination of those political entities, not including a state supported college, university, or institution.

(b) “Community planner” means a person qualified to prepare comprehensive community plans under this article.

(c) “Comprehensive community plan” means a unified document of text, charts, graphics, or maps, or combination of texts, charts, graphics, or maps, designed to portray general, long-range proposals for the arrangement of land uses and which is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws. For transfer of powers and duties of the board of professional community planners from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the board of professional community planners, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular Name: Act 299

339.2302 Board of professional community planners; creation.

Sec. 2302. A board of professional community planners is created.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2303 Use of title “community planner.”

Sec. 2303. Only a person registered under this article may use the title “community planner”.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2304 Community planner; preparation of comprehensive community plan; registration of individuals only; engaging in practice of architecture, engineering, or land surveying.

Sec. 2304. (1) A community planner may engage in the preparation of the comprehensive community plan including the preparation of planning studies which assist in the preparation or the implementation of the comprehensive community plan.

(2) Only individuals shall be registered under this article.

(3) A community planner shall not engage in the practice of architecture, engineering, or land surveying as defined in article 20, unless licensed under that article as an architect, professional engineer, or land surveyor.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2305 Seal.

Sec. 2305. A community planner shall place a seal upon the work of the community planner or the planning work for which the community planner is responsible. The seal shall bear the community planner's name.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2306 Applicant for registration as community planner; requirements; 2-stage examination; completion of requirements for registration.

Sec. 2306. (1) The department shall issue a registration to an individual applying for registration as a community planner who meets all of the following requirements:

- (a) Has passed an examination approved by the department and the board.
- (b) Is of good moral character.
- (c) Has had not less than 6 years of planning experience in the type of work necessary to the preparation or implementation of comprehensive community plans, not less than 2 years of which shall have been in the United States. However, only 2 years of planning experience is mandatory. A maximum waiver of 4 years may be allowed for 1 degree only as follows:
 - (i) Doctorate or master's degree in planning, 4 years' credit.
 - (ii) Bachelor's degree in planning, 3 years' credit.
 - (iii) Doctorate or master's degree in a related field including architecture, landscape architecture, civil engineering, sociology, economics, geography, political science, or public administration, 3 years' credit.
 - (iv) Any other degree in a related field, 2 years' credit.
- (2) The department may permit the applicant to take the prescribed examination in 2 stages. The stages are as follows:
 - (a) The first stage of the examination may be taken after the applicant has 3 years of experience credit which may be based on a degree listed in subsection (1)(c).

(b) The second stage of the examination shall be given only after the applicant meets the requirements of subsection (1)(c). The second stage shall test the applicant's ability to apply the applicant's training and knowledge to practical problems in the profession and shall further test the applicant's understanding of the applicant's professional responsibilities.

(3) Except as otherwise provided in subsection (2)(a), all requirements for registration shall be completed within 10 years after receipt of the application by the department. If the requirements are not completed within the 10-year period, the application shall be void.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2307 Certificate of registration; notice of expiration.

Sec. 2307. The department shall notify each person registered under this article of the date of expiration of the person's certificate of registration. The notice shall be mailed to the latest address on file with the department at least 1 month in advance of the date of expiration of the certificate of registration.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2308 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed section pertained to application for registration.

Popular Name: Act 299

339.2309 Certificate of registration; issuance as evidence of rights and privileges; seal.

Sec. 2309. (1) The issuance of a certificate of registration under this article shall be evidence that the person named on the certificate of registration is entitled to all the rights and privileges of a community planner while the certificate of registration remains valid.

(2) Each person registered under this article shall obtain a seal of the design authorized by the board, bearing the person's name and the words "community planner".

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2310 Registering holder of valid certificate of qualification or registration issued by another state.

Sec. 2310. Upon application, the department shall register an individual as a community planner if the individual holds a valid certificate of qualification or registration issued by a state in which the requirements for the registration of community planners and under which the certificate of qualification or registration was issued, as determined by the department, do not conflict with this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

RESIDENTIAL BUILDERS

Article 24

339.2401 Definitions.

Sec. 2401. As used in this article:

(a) "Residential builder" means a person engaged in the construction of a residential structure or a combination residential and commercial structure who, for a fixed sum, price, fee, percentage, valuable consideration, or other compensation, other than wages for personal labor only, undertakes with another or offers to undertake or purports to have the capacity to undertake with another for the erection, construction, replacement, repair, alteration, or an addition to, subtraction from, improvement, wrecking of, or demolition of, a residential structure or combination residential and commercial structure; a person who manufactures, assembles, constructs, deals in, or distributes a residential or combination residential and commercial

structure which is prefabricated, preassembled, precut, packaged, or shell housing; or a person who erects a residential structure or combination residential and commercial structure except for the person's own use and occupancy on the person's property.

(b) "Residential maintenance and alteration contractor" means a person who, for a fixed sum, price, fee, percentage, valuable consideration, or other compensation, other than wages for personal labor only, undertakes with another for the repair, alteration, or an addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure or combination residential and commercial structure, or building of a garage, or laying of concrete on residential property, or who engages in the purchase, substantial rehabilitation or improvement, and resale of a residential structure, engaging in that activity on the same structure more than twice in 1 calendar year, except in the following instances:

(i) If the work is for the person's own use and occupancy.

(ii) If the rehabilitation or improvement work of residential type property or a structure is contracted for, with, or hired entirely to be done and performed for the owner by a person licensed under this article.

(iii) If work is performed by a person employed by the owner to perform work for which the person is licensed by the state.

(c) "Residential structure" means a premises used or intended to be used for a residence purpose and related facilities appurtenant to the premises, used or intended to be used, as an adjunct of residential occupancy.

(d) "Salesperson" means an employee or agent, other than a qualifying officer, of a licensed residential builder or residential maintenance and alteration contractor, who for a salary, wage, fee, percentage, commission, or other consideration, sells or attempts to sell, negotiates or attempts to negotiate, solicits for or attempts to solicit for, obtains or attempts to obtain a contract or commitment for, or furnishes or attempts or agrees to furnish, the goods and services of a residential builder or residential maintenance and alteration contractor, except a person

working for a licensed residential builder or residential maintenance and alteration contractor who makes sales which are occasional and incidental to the person's principal employment.

(e) "Wages" means money paid or to be paid on an hourly or daily basis by an owner, lessor, or occupant of a residential structure or combination residential and commercial structure as consideration for the performance of personal labor on the structure by a person who does not perform or promise to perform the labor for any other fixed sum, price, fee, percentage, valuable consideration, or other compensation and who does not furnish or agree to furnish the material or supplies required to be used in the performance of the labor or an act defined in subdivision (a) or (b).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1991, Act 166, Imd. Eff. Dec. 19, 1991

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299

339.2402 Residential builders' and maintenance and alteration contractors' board; creation; qualifications of members.

Sec. 2402. (1) A residential builders' and maintenance and alteration contractors' board is created. Of the 9-member board, 4 members shall be licensed residential builders, and 2 members shall be licensed maintenance and alteration contractors.

(2) Of the members representing the general public, at least 1 member shall be registered under the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 2007, Act 157, Eff. June 1, 2008

Popular Name: Act 299

339.2403 Engaging in business or acting in capacity of residential builder or residential maintenance and alteration contractor or salesperson without license.

Sec. 2403. Notwithstanding article 6, a person may engage in the business of or act in the capacity of a residential builder or a residential maintenance and alteration contractor or salesperson in this state without having a license, if the person is 1 of the following:

- (a) An authorized representative of the United States government, this state, or a county, township, city, village, or other political subdivision of this state.
- (b) An owner of property, with reference to a structure on the property for the owner's own use and occupancy.
- (c) An owner of rental property, with reference to the maintenance and alteration of that rental property.
- (d) An officer of a court acting within the terms of the officer's office.
- (e) A person other than the salesperson who engages solely in the business of performing work and services under contract with a residential builder or a residential maintenance and alteration contractor licensed under this article.
- (f) A person working on 1 undertaking or project by 1 or more contracts, the aggregate contract price for which labor, material, and any other item is less than \$600.00. This exemption does not apply if the work of a construction is only a part of a larger or major operation, whether undertaken by the same or a different residential builder or residential maintenance and alteration contractor, or in which a division of the operation is made in contracts of amounts less than \$600.00, to evade this act.
- (g) An electrical contractor who is licensed under Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Michigan Compiled Laws. This exemption applies only to the

electrical installation, electrical maintenance, or electrical repair work performed by the electrical contractor.

(h) A plumbing contractor licensed under Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws. This exemption applies only to plumbing installation, plumbing maintenance, or plumbing repair work performed by the plumbing contractor.

(i) A mechanical contractor who is licensed under the mechanical contractors act. This exemption applies only to mechanical installation, mechanical maintenance, or mechanical repair work performed by the mechanical contractor.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1982, Act 6, Imd. Eff. Feb. 15, 1982 ;-- Am. 1984, Act 191, Imd. Eff. July 3, 1984

Popular Name: Act 299

339.2404 Evidence of good moral character and financial stability; submission; examination; issuance of residential maintenance and alteration contractor's license; scope of crafts and trades; place of business; branch office license; duration of license; documentation of continuing competency requirements.

Sec. 2404. (1) The department may require an applicant, licensee, or each partner, trustee, director, officer, member, or shareholder to submit evidence of good moral character, and financial stability. Before the issuance of a license, an applicant shall submit the following:

(a) Any amount required to be paid under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.

(b) A copy of an operator's license or state personal identification card, to be used by the department only for proof of identity of the applicant.

(2) The department shall require an applicant for a license to pass an examination establishing that the applicant has a fair knowledge of the obligations of a residential builder or residential maintenance and

alteration contractor to the public and the applicant's principal, and the statutes relating to the applicant's licensure.

(3) The department, upon application, may issue a residential maintenance and alteration contractor's license to an applicant who, upon examination, qualifies for a license, which shall authorize the licensee according to the applicant's qualifications, crafts, and trades to engage in the activities of a residential maintenance and alteration contractor. A license shall include the following crafts and trades: carpentry; concrete; swimming pool installation; waterproofing a basement; excavation; insulation work; masonry work; painting and decorating; roofing; siding and gutters; screen or storm sash installation; tile and marble work; and house wrecking. The license shall specify the particular craft or trade for which the licensee has qualified. This subsection shall not prohibit a specialty contractor from taking and executing a contract involving the use of 2 or more crafts or trades if the performance of the work in the craft or trade, other than in which the person is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

(4) A residential builder or residential maintenance and alteration contractor shall maintain a place of business in this state. If a residential builder or residential maintenance and alteration contractor maintains more than 1 place of business within this state, a branch office license shall be issued to the builder or contractor for each place of business so maintained.

(5) Beginning the license cycle after the effective date of the amendatory act that added this subsection, the department shall issue the license of a residential builder and residential maintenance and alteration contractor for a period of 3 years in duration. Beginning the effective date of the amendatory act that added this subsection, an applicant for renewal of a residential builder or maintenance and alteration contractor license shall state that he or she has a current copy of the Michigan residential code and has fulfilled the appropriate requirements regarding continuing competency.

(6) Beginning the effective date of the amendatory act that added this subsection, a licensee shall maintain documentation, for at least 5 years, of activities meeting the continuing competency requirements as prescribed under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1980, Act 496, Eff. Mar. 31, 1981 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1984, Act 193, Imd. Eff. July 3, 1984 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989 ;-- Am. 2007, Act 157, Eff. June 1, 2008

Popular Name: Act 299

339.2404a Information to be provided as part of contract.

Sec. 2404a. A licensee shall, as part of the contract, provide information relating to his or her individual license and to any license issued to that person as a qualifying officer of another entity.

History: Add. 2007, Act 155, Eff. June 1, 2008

Popular Name: Act 299

339.2404b Licensure as residential builder or residential maintenance and alteration contractor; completion of prelicensure course of study; exemption; continuing competency requirements; violation; approved courses; waiver of requirement of membership in trade association; subject matter and instructional qualifications; rules; alternate forms of continuing competency; department audit; application for inactive status; designation of licensee as inactive.

Sec. 2404b. (1) Beginning the effective date of the amendatory act that added this section, applicants for initial licensure either as a residential builder or as a residential maintenance and alteration contractor shall successfully complete a prelicensure course of study as prescribed by this subsection. Licensees holding a residential builder or a residential maintenance and alteration contractor license on the effective date of the amendatory act that added this section that are renewing a license in the capacity of an individual or qualifying officer, or both, are exempt from the requirement of successfully completing prelicensure courses described in this subsection. The department shall require an applicant not exempted under this subsection to successfully complete 60 hours of

approved prelicensure courses consisting of at least 6 hours of courses in each of the following areas of competency:

- (a) Business management, estimating, and job costing.
- (b) Design and building science.
- (c) Contracts, liability, and risk management.
- (d) Marketing and sales.
- (e) Project management and scheduling.
- (f) The current Michigan residential code.
- (g) Construction safety standards promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) Beginning the calendar year after the effective date of the amendatory act that added this section, a person obtaining initial licensure under this article as a residential builder or a residential maintenance and alteration contractor shall successfully complete not less than 3 hours of activities demonstrating continuing competency per calendar year, during the first 6 calendar years of licensure, and 21 hours per 3-year time period since the issuance of his or her license. At least 3 hours shall be devoted to those activities designed to develop a licensee's understanding and ability to apply state building codes and laws relating to the licensed occupation, safety, and changes in construction and business management laws. A licensee who has held a license for more than 6 years or who has not been determined by the department in a final order to have violated this act or a rule adopted under this act shall successfully complete at least 3 hours of activities demonstrating continuing competency per license cycle to include 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in this subsection.

(3) In the case of a licensee who has been determined by the department in a final order to have violated this act or a rule adopted under this act, he or she shall successfully complete, during the next complete license cycle, up to 21 hours of activities that demonstrate the development of continuing competency during that next license cycle as determined appropriate by order of the department, at least 3 hours of that continuing competency to include 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in subsection (2).

(4) As activities that demonstrate the development of continuing competency, the education courses described in section 3, pages 3-6 through 3-58 of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success", published by the national association of home builders, and taught by instructors meeting the requirements of section 4, pages 4-5 through 4-9 of the January 2005 edition of "NAHB University of Housing, Blueprint for Success", are considered approved, are considered appropriate for fulfilling the prelicensure and continuing competency requirements of subsections (1), (2), and (3), and are incorporated by reference. A licensee may take any courses equivalent to those courses incorporated by reference by this subsection. Updates to the courses described in this subsection or equivalent courses are acceptable unless the department determines that the courses do not provide a means of developing and maintaining continuing competency for those applicants or licensees who successfully fulfill the course requirements. Any construction code update courses approved by the bureau of construction codes as well as fire safety or workplace safety courses approved or sponsored by the department are also considered appropriate for fulfilling the continuing competency requirements of this subsection. The department may, by rule, amend, supplement, update, substitute, or determine equivalency regarding any courses or alternate activities for developing continuing competency described in this subsection.

(5) The department may waive the requirement of membership in a local, state, or national trade association contained in the instructor standards of section 4, pages 4-5 through 4-9 of the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success",

published by the national association of home builders, and incorporated by reference. By rule, the department may amend, supplement, update, substitute, or determine equivalency regarding the standards in this subsection and shall establish instructor qualifications for courses not incorporated by reference in subsection (4).

(6) The subject matter of the prelicensure and continuing competency activities may be offered by a high school, intermediate school district, community college, university, bureau of construction codes, Michigan occupational safety and health administration, trade association, or a proprietary school licensed by the department as meeting the subject matter qualifications described in subsection (4) and the instructional qualifications described in subsection (5).

(7) The department shall promulgate rules to provide for the following:

(a) Requirements other than those listed in subsection (4) for determining that a course meets the minimum criteria for developing and maintaining continuing competency.

(b) Requirements for acceptable courses offered at seminars and conventions by trade associations, research institutes, risk management entities, manufacturers, suppliers, governmental agencies other than those named in subsection (4), consulting agencies, or other entities.

(c) Acceptable distance learning.

(d) Alternate forms of continuing competency, including comprehensive testing, participation in mentoring programs, research, participation in code hearings conducted by the international code council, and publication of articles in a trade journal or regional magazine as an expert in the field. The alternate forms shall be designed to maintain and improve the licensee's ability to perform the occupation with competence and shall prescribe proofs that are necessary to demonstrate that the licensee has fulfilled the requirements of continuing competency.

(8) Each licensee may select approved courses in his or her subject matter area or specialty. Service as a lecturer or discussion leader in an approved course shall be counted toward the continuing competency requirements of this section. Alternate forms of continuing competency may be earned and documented as promulgated in rules by the department.

(9) The department may audit a predetermined percentage of licensees who renew in a year for compliance with the requirements of this section. Failure to comply with the audit or the requirements shall result in the investigation of a complaint initiated by the department, and the licensee is subject to the penalties prescribed in this act.

(10) A licensee as a residential builder or residential alteration and maintenance contractor may apply for inactive status by completing an application, made available by the department, in which he or she declares that he or she is no longer actively engaged in the practice authorized by his or her license and temporarily intends to suspend activity authorized by his or her license. Upon submission of a completed application, the department shall designate the licensee as inactive and note that status on records available to the public. A licensee designated as inactive must have a current copy of the Michigan residential code and is exempt from the continuing competency requirements imposed under this section, but must still pay the per-year license fee. An inactive licensee may activate his or her license by submitting an application to the department requesting activation of the license. Upon activation of a license, the licensee must complete at least 1 credit hour of continuing competency for that calendar year.

History: Add. 2007, Act 157, Eff. June 1, 2008

Popular Name: Act 299

339.2405 Application for license by corporation, partnership, association, limited liability company, or other entity; designation and responsibilities of qualifying officer; age and license requirements; suspension, revocation, or denial of license.

Sec. 2405. (1) If a license is applied for by a corporation, partnership, association, limited liability company, or other entity, the applicant shall

designate 1 of its officers, partners, members, or managing agent as a qualifying officer who, upon taking and passing the examination, and upon meeting all other requirements of this article, is entitled to a license to act for the corporation, partnership, association, limited liability company, or other entity. The qualifying officer shall also obtain and maintain a license under this article as an individual. The qualifying officer shall be responsible for exercising the supervision or control of the building or construction operations necessary to secure full compliance with this article and the rules promulgated under this article. A license shall not be issued to a corporation, partnership, association, limited liability company, or other entity unless each partner, trustee, director, officer, member, and a person exercising control is at least 18 years of age, and meets the requirements for a license under this article other than those relating to knowledge and experience. If an individual licensee is also a qualifying officer, the individual's name and license number shall be listed on any license issued to the individual as a qualifying officer. In the case of a license issued under this subsection, each officer, partner, member, or managing agent, whether or not he or she is the qualifying officer, shall provide a copy of his or her operator's license or state personal identification card to the department for use by the department only for identification purposes. A licensee granted inactive status under section 2404b is not eligible to serve as a qualifying officer.

(2) The license of a corporation, partnership, association, limited liability company, or other entity shall be suspended when a license or license application of a qualifying officer, partner, trustee, director, officer, member, or a person exercising control of the corporation, partnership, association, limited liability company, or other entity is suspended, revoked, or denied. The suspension shall remain in force until the board determines that the disability created by the suspension, revocation, or denial has been removed.

(3) A suspension, revocation, or denial of a license of an individual shall suspend, revoke, or deny any other license held or applied for by that individual issued under this article. A suspension, revocation, or denial of a license by the department shall suspend, revoke, or deny any other

license held or applied for under this article by the qualifying officer of a corporation, partnership, association, limited liability company, or other entity whose license is suspended, revoked, or denied.

(4) If the qualifying officer of a licensee ceases to be its qualifying officer, the license is suspended. However, upon request, the department may permit the license to remain in force for a reasonable time to permit the qualification of a new qualifying officer.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 2007, Act 155, Eff. June 1, 2008 ;-- Am. 2007, Act 157, Eff. June 1, 2008

Popular Name: Act 299

339.2406 Nonresident licensee; issuing license to foreign corporation; irrevocable consent to service of process; resolution authorizing consent; service of process or pleading.

Sec. 2406. A nonresident of this state may become a licensee under this article by conforming with this article. A license shall not be issued to a foreign corporation unless the corporation is authorized to do business in this state by the corporation and securities commission. The nonresident shall file an irrevocable consent to service of process. The consent shall be signed by the applicant or by an authorized officer, member, or partner of the applicant and shall be notarized. If the applicant is a corporation, consent shall be accompanied by a certified copy of the resolution of the corporation authorizing the consent. A process or pleading served upon the department shall be sufficient service upon the licensee. A process or pleading served upon the department under this section shall be in duplicate. The department immediately shall forward by registered mail 1 copy of the process or pleading to the main office of the licensee served.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2407 Licensing salesperson in employ of 1 builder or contractor; application for transfer and issuance of new license; submission of salesperson's license application.

Sec. 2407. (1) A salesperson shall be licensed in the employ of only 1 residential builder or maintenance and alteration contractor. If a salesperson desires to change employment from 1 residential builder or maintenance and alteration contractor to another, the license shall be forwarded to the department and application made for a transfer and the issuance of a new license under the salesperson's new employer.

(2) An application for a salesperson's license shall be submitted by the employing residential builder or residential maintenance and alteration contractor.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2408 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed section pertained to disposition of license fee after failure to pass examination.

Popular Name: Act 299

339.2409 Failure to pay assessment; automatic suspension of licenses; reporting certain changes.

Sec. 2409. (1) Failure of a residential builder or residential maintenance and alteration contractor to pay within 90 days of notice of the required assessment under section 201(2) of the construction lien act, Act No. 497 of the Public Acts of 1980, being section 570.1201 of the Michigan Compiled Laws, shall result in the automatic suspension of all licenses issued under this article.

(2) A licensee shall report to the department a change of name or address or a change of members or addresses of the partnership, association, or corporation holding a license under this article within 30 days after the change occurs.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1980, Act 496, Eff. Mar. 31, 1981 ;-- Am. 1982, Act 410, Imd. Eff. Dec. 28, 1982 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2410 Repeating examination not required when making application for additional license.

Sec. 2410. A person or qualifying officer for a corporation or member of a partnership or other business association who currently holds a residential builder or maintenance and alteration contractor license shall not be required to repeat an examination for that license when making application for an additional license. However, a maintenance and alteration contractor who currently holds a license and makes application for a residential builders' license shall be required to take an examination for that license.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2411 Complaint; conduct subject to penalty; suspension or revocation of license; violations; administrative proceedings regarding workmanship; order of default; “verified complaint” defined.

Sec. 2411. (1) A complaint filed under this section or article 5, or both, shall be made within 18 months after the latest of the following regarding a residential structure or a combination of residential and commercial structure as follows:

(a) In the case of a maintenance and alteration contract:

- (i) Completion.
- (ii) Occupancy.
- (iii) Purchase.

(b) In the case of a project requiring an occupancy permit:

- (i) Issuance of the certificate of occupancy or temporary certificate of occupancy.
- (ii) Closing.

(2) A licensee or applicant who commits 1 or more of the following shall be subject to the penalties set forth in article 6:

(a) Abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

(b) Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.

(c) Failure to account for or remit money coming into the person's possession which belongs to others.

(d) A willful departure from or disregard of plans or specifications in a material respect and prejudicial to another, without consent of the owner or an authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with the plans and specifications.

(e) A willful violation of the building laws of the state or of a political subdivision of the state.

(f) In a residential maintenance and alteration contract, failure to furnish to a lender the purchaser's signed completion certificate executed upon completion of the work to be performed under the contract.

(g) If a licensed residential builder or licensed residential maintenance and alteration contractor, failure to notify the department within 10 days of a change in the control or direction of the business of the licensee resulting from a change in the licensee's partners, directors, officers, or trustees, or a change in the control or direction of the business of the licensee resulting from any other occurrence or event.

(h) Failure to deliver to the purchaser the entire agreement of the parties including finance and any other charge arising out of or incidental to the

agreement when the agreement involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure or combination of residential and commercial structure, or building of a garage, or laying of concrete on residential property, or manufacture, assembly, construction, sale, or distribution of a residential or combination residential and commercial structure which is prefabricated, preassembled, precut, packaged, or shell housing.

(i) If a salesperson, failure to pay over immediately upon receipt money received by the salesperson, in connection with a transaction governed by this article to the residential builder or residential maintenance and alteration contractor under whom the salesperson is licensed.

(j) Aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee.

(k) Acceptance of a commission, bonus, or other valuable consideration by a salesperson for the sale of goods or the performance of service specified in the article from a person other than the residential builder or residential maintenance and alteration contractor under whom the person is licensed.

(l) Becoming insolvent, filing a bankruptcy action, becoming subject to a receivership, assigning for the benefit of creditors, failing to satisfy judgments or liens, or failing to pay an obligation as it becomes due in the ordinary course of business.

(m) Workmanship not meeting the standards of the Michigan residential code as promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(3) The department shall suspend or revoke the license of a person licensed under this article whose failure to pay a lien claimant results in a payment being made from the homeowner construction lien recovery fund pursuant to the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305, regardless of whether the person was performing services as a licensee under this article; under the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892; or under the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569. The department shall not renew a license or issue a new license until the licensee has repaid in full to the fund the amount paid out plus the costs of litigation and interest at the rate set by section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013.

(4) The department shall conduct a review upon notice that the licensee has violated the asbestos abatement contractors licensing act, 1986 PA 135, MCL 338.3101 to 338.3319. The department may suspend or revoke that person's license for a knowing violation of the asbestos abatement contractors licensing act, 1986 PA 135, MCL 338.3101 to 338.3319.

(5) Notwithstanding article 5, the following apply to administrative proceedings regarding workmanship under subsection (2)(m):

(a) A complaint submitted by an owner shall describe in writing to the department the factual basis for the allegation. The homeowner shall send a copy of the initial complaint to the licensee concurrent with the submission of the complaint to the department.

(b) The department shall presume the innocence of the licensee throughout the proceeding until the administrative law hearing examiner finds otherwise in a determination of findings of fact and conclusions of law under article 5. The licensee has the burden of refuting evidence submitted by a person during the administrative hearing. The licensee also has the burden of proof regarding the reason deficiencies were not corrected.

(c) Upon receipt of a building inspection report issued to the department by a state or local building enforcement official authorized to do so under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, which report verifies or confirms the substance of the complaint, the department shall send by certified mail a copy of the verified complaint to the licensee. Failure of the department to send a copy of the verified complaint within 30 days of receipt of the building inspection report prevents the department from assessing a fine against the licensee under article 6 but does not prevent the department from pursuing restitution, license suspension, or other remedies provided under this act.

(d) A licensee may contractually provide for an alternative dispute resolution procedure to resolve complaints filed with the department. The procedure shall be conducted by a neutral third party for determining the rights and responsibilities of the parties and shall be initiated by the licensee, who shall provide notice of the initiation of the procedure to the complainant by certified mail not less than 30 days before the commencement of that procedure. The procedure shall be conducted at a location mutually agreed to by the parties.

(e) The department shall not initiate a proceeding against a licensee under this subsection in the case of a licensee who contractually provides for an alternative dispute resolution procedure that has not been utilized and completed unless it is determined that the licensee has not complied with a decision or order issued as a result of that alternative dispute resolution procedure, that alternative dispute resolution procedure was not fully completed within 90 days after the filing of the complaint with the department, or an alternative dispute resolution procedure meeting the requirements of subdivision (d) is not available to the complainant.

(f) The complainant shall demonstrate that notice has been provided to the licensee describing reasonable times and dates that the residential structure was accessible for any needed repairs and proof acceptable to the department that the repairs were not made within 60 days after the sending of the notice. This subdivision does not apply where the department determines a necessity to safeguard the structure or to protect

the occupant's health and safety and, in such case, the department may utilize any remedy available under section 504(3)(a) through (d).

(g) In the case where the owner and licensee have agreed contractually on mutually acceptable performance guidelines relating to workmanship, the department shall consider those guidelines in its evaluation of a complaint. The guidelines shall be consistent with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(6) In any case where the licensee or respondent fails to appear, participate, or defend any action, the board shall issue an order granting by default the relief requested, based upon proofs submitted to and findings made, by the hearing examiner after a contested case.

(7) As used in this section, "verified complaint" means a complaint in which all or a portion of the allegations have been confirmed by an affidavit of the state or local building official.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1980, Act 496, Eff. Mar. 31, 1981 ;-- Am. 1982, Act 410, Imd. Eff. Dec. 28, 1982 ;-- Am. 1990, Act 6, Imd. Eff. Feb. 12, 1990 ;-- Am. 1991, Act 166, Imd. Eff. Dec. 19, 1991 ;-- Am. 2001, Act 113, Imd. Eff. July 31, 2001 ;-- Am. 2007, Act 155, Eff. June 1, 2008 ;-- Am. 2007, Act 157, Eff. June 1, 2008

Popular Name: Act 299

339.2411a Final order of board; posting on website.

Sec. 2411a. (1) The department shall post on its website any final order of the board and the date it was issued. The posting shall occur within 30 days after the final order is issued.

(2) The department shall annually post on its website the number of final orders of the board.

History: Add. 2007, Act 157, Eff. June 1, 2008

Popular Name: Act 299

339.2412 Action for collection of compensation for performance of act or contract; alleging and proving licensure; failure to use alternative dispute resolution; other legal action; civil violation.

Sec. 2412. (1) A person or qualifying officer for a corporation or member of a residential builder or residential maintenance and alteration contractor shall not bring or maintain an action in a court of this state for the collection of compensation for the performance of an act or contract for which a license is required by this article without alleging and proving that the person was licensed under this article during the performance of the act or contract.

(2) Failure of the person bringing a complaint against a licensee to utilize a contractually provided alternative dispute resolution procedure shall be an affirmative defense to an action brought in a court of this state against a licensee under this article.

(3) A person or qualifying officer for a corporation or a member of a residential builder or residential maintenance and alteration contractor shall not impose or take any legal or other action to impose a lien on real property unless that person was licensed under this article during the performance of the act or contract.

(4) A prosecuting attorney and the attorney general may bring an action for a civil violation in a court of competent jurisdiction against a person not licensed under this article that has violated section 601(1) or (2). The court shall assess a civil fine, to be paid to the prosecuting attorney or the attorney general bringing the action, of not less than \$5,000.00 and not more than \$25,000.00, aside from any civil damages or restitution.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1980, Act 496, Eff. Mar. 31, 1981 ;-- Am. 2001, Act 113, Imd. Eff. July 31, 2001 ;-- Am. 2007, Act 155, Eff. June 1, 2008.

REAL ESTATE BROKERS AND SALESPERSONS

Article 25

339.2501 Definitions.

Sec. 2501. As used in this article:

(a) "Employ" or "employment" means the relationship between a real estate broker and an associate broker or a real estate salesperson which may include an independent contractor relationship. The existence of an independent contractor relationship between a real estate broker and an individual licensed to the real estate broker shall not relieve the real estate broker of the responsibility to supervise acts of the licensee regulated by this article.

(b) "Independent contractor relationship" means a relationship between a real estate broker and an associate broker or real estate salesperson that satisfies both of the following conditions:

(i) A written agreement exists in which the real estate broker does not consider the associate broker or real estate salesperson as an employee for federal and state income tax purposes.

(ii) Not less than 75% of the annual compensation paid by the real estate broker to the associate broker or real estate salesperson is from commissions from the sale of real estate.

(c) "Limited service agreement" means a written service provision agreement by which the real estate broker and client establish an agency relationship in which certain enumerated services, as set forth in section 2512d(3)(b), (c), and (d), are knowingly waived in whole or part by the client.

(d) "Professional designation" means a certification from a real estate professional association demonstrating attainment of proven skills or education in a real estate occupational area and may include the right to use a title or letters after the licensee's name that represent the designation bestowed by the certifying entity.

(e) "Property management" means the leasing or renting, or the offering to lease or rent, of real property of others for a fee, commission, compensation, or other valuable consideration pursuant to a property management employment contract.

(f) "Property management account" means an interest-bearing or noninterest-bearing account or instrument used in the operation of property management.

(g) "Property management employment contract" means the written agreement entered into between a real estate broker and client concerning the real estate broker's employment as a property manager for the client; setting forth the real estate broker's duties, responsibilities, and activities as a property manager; and setting forth the handling, management, safekeeping, investment, disbursement, and use of property management money, funds, and accounts.

(h) "Real estate broker" means an individual, sole proprietorship, partnership, association, corporation, common law trust, or a combination of those entities who with intent to collect or receive a fee, compensation, or valuable consideration, sells or offers for sale, buys or offers to buy, provides or offers to provide market analyses, lists or offers or attempts to list, or negotiates the purchase or sale or exchange or mortgage of real estate, or negotiates for the construction of a building on real estate; who leases or offers or rents or offers for rent real estate or the improvements on the real estate for others, as a whole or partial vocation; who engages in property management as a whole or partial vocation; who sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others; or who, as owner or otherwise, engages in the sale of real estate as a principal vocation.

(i) "Real estate salesperson" means a person who for compensation or valuable consideration is employed either directly or indirectly by a licensed real estate broker to sell or offer to sell, to buy or offer to buy, to provide or offer to provide market analyses, to list or offer or attempt to list, or to negotiate the purchase or sale or exchange or mortgage of real estate, or to negotiate for the construction of a building on real estate, or to lease or offer to lease, rent or offer for rent real estate, who is employed by a real estate broker to engage in property management, or who sells or offers for sale, buys or offers to buy, leases or offers to

lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others, as a whole or partial vocation.

(j) "Service provision agreement" means a buyer agency agreement or listing agreement executed by a real estate broker and a client that establishes an agency relationship.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988 ;-- Am. 1990, Act 269, Eff. July 1, 1991 ;-- Am. 1993, Act 93, Imd. Eff. July 13, 1993 ;-- Am. 1994, Act 333, Imd. Eff. Oct. 18, 1994 ;-- Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003 ;-- Am. 2008, Act 90, Eff. July 1, 2008

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299

339.2502 Board of real estate brokers and salespersons; creation.

Sec. 2502. The board of real estate brokers and salespersons is created.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2502a Real estate broker, associate real estate broker, and real estate salesperson; term of license.

Sec. 2502a. Beginning November 1, 2003, the department shall issue a license for real estate broker, associate real estate broker, and real estate salesperson for a term of 3 years.

History: Add. 2002, Act 611, Imd. Eff. Dec. 20, 2002

Popular Name: Act 299

339.2503 Exemptions; definition.

Sec. 2503. (1) This article shall not apply to an individual, partnership, association, or corporation, who as owner, sells or offers for sale a detached, single family dwelling, duplex, triplex, or quadruplex, which has never been occupied and which was built by the individual, partnership, association, or corporation while licensed under article 24.

This article does not apply to an individual, partnership, association, or corporation, who as owner or lessor or as attorney-in-fact acting under a duly executed and recorded power of attorney from the owner or lessor, or who has been appointed by a court, performs an act as a real estate broker or real estate salesperson with reference to property owned by it, unless performed as a principal vocation not through a licensed real estate broker.

(2) This article shall not include the services rendered by an attorney at law as an attorney at law, nor shall it include a receiver, trustee in bankruptcy, administrator, executor, a person selling real estate under order of a court, nor a trustee selling under a deed of trust. This exemption of a trustee shall not apply to repeated or successive sales of real estate by the trustee, unless the sale is made through a licensed real estate broker.

(3) This article does not apply to a person who is regulated under the mortgage brokers, lenders, and servicers licensing act, Act No. 173 of the Public Acts of 1987, being sections 445.1651 to 445.1683 of the Michigan Compiled Laws, and who does not perform any other act requiring a license as a real estate broker, associate broker, or real estate salesperson.

(4) For the purposes of this article, “negotiate the mortgage of real estate” as described in section 2501, means engaging in activity not regulated under Act No. 173 of the Public Acts of 1987.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1987, Act 63, Imd. Eff. June 25, 1987 ;-- Am. 1987, Act 174, Imd. Eff. Nov. 18, 1987 ;-- Am. 1990, Act 269, Eff. July 1, 1991

Popular Name: Act 299

339.2504 Real estate broker's license; approved classroom courses; application; condition to taking examination; renewal or reinstatement of license; continuing education requirements; exceptions; approval of person offering or conducting course or courses of study; suspension or revocation of approval; prohibited representations; conduct of pre-licensure course; violation;

penalties; real estate clinic, meeting, course, or institute; sponsoring studies, research, and programs.

Sec. 2504. (1) Before receiving a real estate broker's license, an applicant shall submit an application as described in section 2505 and shall have successfully completed not less than 90 clock hours of approved classroom courses in real estate of which not less than 9 clock hours shall be instruction on civil rights law and equal opportunity in housing. The 90 hours shall be in addition to the hours required to obtain a real estate salesperson's license.

(2) Before being permitted to take the real estate salesperson's examination, an applicant shall show proof of successful completion of not less than 40 clock hours of classroom courses in principles of real estate, of which not less than 4 clock hours shall be instruction on civil rights law and equal opportunity in housing.

(3) For purposes of subsections (1) and (2), approved courses may be on the following topics:

- (a) Real estate license law and related regulatory laws.
- (b) Real property law, including property interests and restrictions.
- (c) Federal, state, and local tax laws affecting real property.
- (d) Conveyances, including contracts, deeds, and leases.
- (e) Financing, including mortgages, land contracts, foreclosure, and limits on lending procedures and interest rates.
- (f) Appraisal of real property.
- (g) Design and construction.
- (h) Marketing, exchanging, and counseling.
- (i) The law of agency.

(j) Sales and office management, including listing and selling techniques.

(k) Real estate securities and syndications.

(l) Investments, including property management.

(4) Except as otherwise provided in this subsection, before being permitted to renew an active real estate broker's or real estate salesperson's license, a licensee shall have successfully completed, within the preceding 12 months, not less than 6 clock hours of continuing education approved by the department involving any topics relevant to the management, operation, and practice of real estate and covering changes in economic conditions, law, rules, court cases, and interpretations, or any combination of those changes, relating to real property which are pertinent to the activities of a real estate broker or real estate salesperson. Beginning November 1, 2003, a licensee shall complete not less than 18 hours of continuing education per 3-year license cycle. A licensee shall complete at least 6 hours of the required 18 hours of continuing education courses during the time period from November 1, 2003 and ending on December 31, 2004. During calendar year 2005, a licensee shall complete at least 6 hours of the required 18 hours of continuing education courses. During calendar year 2006, a licensee shall complete at least 4 hours of the required 18 hours of continuing education courses. During calendar year 2007 and thereafter, a licensee shall complete at least 2 hours per calendar year of the required 18 hours of continuing education courses. Any education successfully completed by a licensee for further professional designation and approved by the department as continuing education may be counted toward the total continuing education credits required for the 3-year license cycle. Each licensee, in completing the appropriate number of clock hours, will have the option of selecting the education courses in that licensee's area of expertise, as long as the education courses are approved by the department and as long as at least 2 hours of an education course per calendar year involve law, rules, and court cases regarding real estate. Notwithstanding the provisions of this subsection, the department may renew the license of a licensee who has completed not less than 18 hours of continuing education in the subject matter areas

required by this subsection during the 3-year license cycle but has not otherwise met the requirements of this section if the licensee provides evidence satisfactory to the department that he or she has good cause for not complying with the requirements in this subsection.

(5) The department may relicense without examination a licensee whose license has lapsed for less than 3 years if the licensee shows proof of completion of not less than 6 clock hours of continuing education for each year the license was lapsed, on topics as described in subsection (4).

(6) The department may relicense a broker whose license has lapsed for 3 or more continuous years if the licensee provides proof of the successful completion of 1 of the following:

(a) Six clock hours of continuing education for each of the years the license was lapsed on topics described in subsection (4).

(b) Ninety clock hours of instruction described in subsections (1) and (3).

(c) Passing the examination required for licensure as a broker as provided for in section 2505(5).

(7) A salesperson whose license has been lapsed for 3 or more continuous years may be relicensed if the licensee provides proof of the successful completion of 1 of the following:

(a) Six clock hours of continuing education for each of the years the license was lapsed on topics described in subsection (4).

(b) Forty clock hours of instruction described in subsections (2) and (3).

(c) Passing the examination required for licensure as a salesperson as provided in section 2505(5).

(8) The department shall not apply the course credits used to meet continuing education requirements provided in subsections (4) through (7) towards the real estate broker's license education requirements

provided in subsection (1), and course credits taken under real estate broker's license education requirements shall not be applied towards the continuing education requirements. The department shall apportion the approved course credits eligible for education requirements in subsection (1) and subsections (4) through (7) to meet either requirement upon the licensee's request.

(9) For real estate brokers, associate brokers, and salespersons who receive a license issued in the second or third years of a 3-year license cycle, continuing education shall be in compliance with subsection (4), except for the following:

(a) A real estate broker, associate broker, or salesperson who receives a license issued in the second year of the 3-year license cycle is required to complete 12 hours of continuing education to renew his or her license.

(b) A real estate broker, associate broker, or salesperson who receives a license issued in the third year of the 3-year licensing cycle is required to complete 6 hours of continuing education to renew his or her license.

(10) A person who offers or conducts a course or courses of study represented to meet the educational requirements of this article first shall obtain approval from the department and shall comply with the rules of the department concerning curriculum, instructor qualification, grading system, and other related matters. In addition to other requirements imposed under rule, in order to receive approval a course shall be designed to be taught for not less than 1 clock hour, not including time spent on breaks, meals, or other unrelated activities, provided the course is only approved for less than 2 clock hours if, based upon the subject matter, course outline, instructional materials, methodology, and other considerations consistent with rules of the department, the department determines that the course objectives can be effectively met in the proposed time period. The department may suspend or revoke the approval of a person for a violation of this article or of the rules promulgated under this article. A person offering or conducting a course shall not represent that its students are assured of passing an examination required by the department. A person shall not represent that the issuance

of departmental approval is a recommendation or indorsement of the person to which it is issued or of a course of instruction given by it. A pre-licensure course approved under this article shall be conducted by a local public school district, a community college, an institution of higher education authorized to grant degrees, or a proprietary school licensed by the department of career development under 1943 PA 148, MCL 395.101 to 395.103.

(11) A person who in operating a school violates subsection (10) is subject to the penalties set forth in article 6.

(12) The department may conduct, hold, or assist in conducting or holding, a real estate clinic, meeting, course, or institute, which shall be open to a person licensed under this article, and may incur the necessary expenses in connection with the clinic, meeting, course, or institute. The department, in the public interest, may assist educational institutions within this state in sponsoring studies, research, and programs for the purpose of raising the standards of professional practice in real estate and the competence of a licensee.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1983, Act 144, Eff. Jan. 1, 1985 ;-- Am. 1984, Act 413, Eff. Mar. 29, 1985 ;-- Am. 2002, Act 611, Imd. Eff. Dec. 20, 2002 ;-- Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003

Popular Name: Act 299

Admin Rule: R 339.22101 et seq. of the Michigan Administrative Code.

339.2505 Real estate broker's license; application; contents; execution of application; effect of certain convictions; place of business; branch office license; contents of application for salesperson's license; proof; examinations.

Sec. 2505. (1) An applicant for a real estate broker's license shall file an application setting forth the applicant's present address, both of business and residence; the complete address of each former place where the applicant has resided or been engaged in business, or acted as a real estate salesperson, for a period of 60 days or more, during the 5 years immediately preceding the date of application. An applicant for a real estate broker's license shall state the name of the individual, sole proprietorship, partnership, association, corporation, limited liability

company, common law trust, or a combination of those entities and the location of the place for which the license is desired, and set forth the period of time which the applicant has been engaged in the business. The application shall be executed by the person, or by an officer or member of the applicant. An applicant for a real estate broker's license which is a partnership, association, corporation, limited liability company, common law trust, or a combination of those entities shall designate which individuals who are officers or members of the partnership, association, limited liability company, or corporation will be performing acts regulated by this article as principals.

(2) The department shall not issue a real estate broker's license to a new applicant who has been convicted of embezzlement or misappropriation of funds.

(3) A real estate broker shall maintain a place of business in this state. If a real estate broker maintains more than 1 place of business within the state, a branch office license shall be secured by the real estate broker for each branch office maintained. A branch office maintained in excess of 25 miles from the city limits in which the broker maintains a main office shall be under the personal, direct supervision of an associate broker.

(4) An applicant for a salesperson's license shall set forth the period of time during which the individual has been engaged in the business, stating the name of the applicant's last employer and the name and the place of business of the individual, partnership, association, limited liability company, corporation, common law trust, or combination of those entities then employing the applicant or in whose employ the applicant is to enter. The application shall be signed by the real estate broker in whose employ the applicant is to enter.

(5) Before issuing a license, the department may require and procure satisfactory proof of the business experience, competence, and good moral character of an applicant for a real estate broker's or salesperson's license or of an officer or member of an applicant. The department shall require an applicant for a broker's or salesperson's license to pass an examination developed by the department or contracted for with a

recognized outside testing agency establishing, in a manner satisfactory to the department, that the applicant has a fair knowledge of the English language, including reading, writing, spelling, and elementary arithmetic; a satisfactory understanding of the fundamentals of real estate practice and of the laws and principles of real estate conveyancing, deeds, mortgages, land contracts, and leases; the obligations of a broker to the public and a principal; and the law defining, regulating, and licensing real estate brokers and salespersons. The department may require written examination or written reexamination of a broker or salesperson, and in that case a passing score satisfactory to the department is required as a condition precedent to relicensure of a broker or salesperson. The department shall require proof that each applicant for a real estate broker's license has the equivalent of 3 years of full-time experience in the business of real estate or in a field that is determined by the department to be relevant and related to the business of real estate.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989 ;-- Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003

Popular Name: Act 299

339.2506 Delivering or mailing real estate salesperson's license to broker; display of licenses; notice of change of location; temporary license.

Sec. 2506. (1) The license of a real estate salesperson shall be delivered or mailed to the real estate broker by whom the real estate salesperson is employed and shall be kept in the custody and control of the broker. A real estate broker shall conspicuously display the real estate broker's license and the license of each real estate salesperson employed by the real estate broker in the real estate broker's place of business. Written notice shall be given to the department by a licensee of a change of either a principal or branch business location.

(2) If the department determines that it will be unable to issue a real estate salesperson's license under subsection (1) within 2 weeks after the department determines that the applicant for a real estate salesperson's license has met all requirements for licensure, or the department is in fact unable to issue the real estate salesperson's license within 2 weeks, the

department shall issue to the applicant, without payment of an additional fee, a temporary license pursuant to section 213.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 14, Imd. Eff. Feb. 18, 1988 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2507 Discharge or termination of real estate salesperson; delivering or mailing salesperson's license to department; application for transfer of license; communication; performing regulated acts without license prohibited.

Sec. 2507. If a real estate salesperson is discharged or terminates employment with a real estate broker by giving the employer a written notice of the termination, the real estate broker shall deliver or mail by certified mail to the department, within 5 days, the real estate salesperson's license. If a written notice of termination of employment is not served upon the real estate broker by the real estate salesperson, an application to the department for a transfer of license by the real estate salesperson shall be communicated in writing by the department to the real estate broker. As of the date of the communication, the notice shall operate as if a written notice were served by the real estate salesperson upon the real estate broker. The real estate broker, at the time of mailing the real estate salesperson's license to the department, shall address a communication to the last known residence address of the real estate salesperson, which communication shall advise the real estate salesperson that the license has been delivered or mailed to the department. A copy of the communication to the real estate salesperson shall accompany the license when mailed or delivered to the department. A real estate salesperson shall not perform an act regulated by this article either directly or indirectly under authority of the license after the date of the department's receipt of the license from a broker. Another license shall not be issued to a real estate salesperson until the person returns the former pocket card to the department or satisfactorily accounts to the department for the pocket card. Not more than 1 license shall be issued to a real estate salesperson for the same period of time.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular Name: Act 299

339.2508 Real estate broker's license; entities to which issued; authorized acts; transferability; associate real estate broker's license; requirements to which applicant subject; suspension; issuance of new license.

Sec. 2508. (1) A real estate broker's license may be issued to an individual, sole proprietorship, partnership, association, corporation, common law trust, or a combination of those entities. A real estate broker's license issued to an individual or a sole proprietorship shall entitle the individual named on the license to perform acts regulated by this article. Subject to subsection (2), a real estate broker's license issued to a partnership, association, corporation, common law trust, or a combination of those entities shall entitle those individuals designated as principals under section 2505(1) to perform acts regulated by this article. A broker's license issued to a partnership, association, corporation, common law trust, or a combination of those entities is not transferable.

(2) Before performing acts regulated under this article, each principal shall apply for and obtain, and any other individual may apply for and obtain, an associate real estate broker's license. An applicant for an associate real estate broker's license shall be subject to the same requirements as an applicant for a real estate broker's license. An associate real estate broker's license shall only be issued to individuals.

(3) The associate real estate broker's license of a principal who ceases to be connected with a partnership, association, corporation, common law trust, or a combination of those entities shall be suspended automatically.

(4) An associate real estate broker's license issued to a principal is not transferable. An associate real estate broker's license issued to a nonprincipal may be transferred in the same manner as provided in section 2507 for the transfer of a real estate salesperson's license.

(5) Upon the revocation of a real estate broker's license, the licenses of all real estate salespersons employed by the real estate broker and all

affiliated associate real estate brokers shall automatically be suspended, pending a change of employer and the issuance of a new license. A new license shall be issued without charge, if the license is issued during the same term in which the original license was issued.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988

Popular Name: Act 299

339.2509 Associate real estate broker's license; issuance to principal and nonprincipal; limitation; definitions.

Sec. 2509. (1) A principal may be issued more than 1 associate real estate broker's license.

(2) A nonprincipal shall not be issued more than 1 associate real estate broker's license as a nonprincipal, but may hold 1 or more associate real estate broker's licenses as a principal.

(3) As used in this section and section 2508:

(a) "Nonprincipal" means an individual who is licensed as an associate real estate broker, but has not been designated as a principal under section 2505(1).

(b) "Principal" means an individual designated as a principal under section 2505(1).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988

Popular Name: Act 299

339.2510 Real estate salesperson; commission or valuable consideration.

Sec. 2510. A real estate salesperson shall not accept from a person other than the real estate salesperson's employer a commission or valuable consideration for the performance of an act specified in this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2511 Plan or scheme for selling or promoting sale of real estate; game promotion; promotional sales of property located outside state.

Sec. 2511. (1) A plan or scheme involving a lottery, contest, game, prize, or drawing shall not be used by a real estate broker or real estate salesperson for the sale or promotion of a sale of real estate. However, a game promotion as defined in and in compliance with section 372a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.372a of the Michigan Compiled Laws, may be used by a real estate broker or real estate salesperson for any purpose other than the direct promotion of a specific piece of real estate.

(2) A real estate broker who proposes to engage in sales of a promotional nature in this state of property located outside of this state, shall submit to the department a full description of the property and the proposed terms of sale, and the real estate broker and the real estate broker's real estate salespersons shall comply with rules, restrictions, and conditions pertaining to the sale as imposed by the department. An expense incurred by the department investigating the property and the proposed sale of the property in this state, shall be borne by the real estate broker. A real estate broker or real estate salesperson shall not refer to the corporation and securities commission of this state, or to an officer or employee of the commission, in selling, offering for sale, advertising, or otherwise promoting the sale, mortgage, or lease of property, or shall not make a representation that the property has been inspected or approved or otherwise passed upon by the department, or by a state official, department, or employee.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1990, Act 164, Imd. Eff. July 2, 1990

Popular Name: Act 299

339.2512 Prohibited conduct; penalties.

Sec. 2512. A licensee who commits 1 or more of the following is subject to the penalties set forth in article 6:

- (a) Except in a case involving property management, acts for more than 1 party in a transaction without the knowledge of the parties.
- (b) Fails to provide a written agency disclosure to a prospective buyer or seller in a real estate transaction as defined in section 2517.
- (c) Represents or attempts to represent a real estate broker other than the employer without the express knowledge and consent of the employer.
- (d) Fails to account for or to remit money coming into the licensee's possession which belongs to others.
- (e) Changes a business location without notification to the department.
- (f) In the case of a real estate broker, fails to return a real estate salesperson's license within 5 days as provided in section 2507.
- (g) In the case of a licensee engaged in property management, violates section 2512c(2), (5), or (6).
- (h) Except as provided in section 2512b, shares or pays a fee, commission, or other valuable consideration to a person not licensed under this article including payment to any person providing the names of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of commercially prepared lists of names. However, a licensed real estate broker may pay a commission to a licensed real estate broker of another state if the nonresident real estate broker does not conduct in this state a negotiation for which a commission is paid.
- (i) Conducts or develops a market analysis not in compliance with section 2601(a)(ii).
- (j) Fails to provide the minimum services as specified in section 2512d(3) when providing services pursuant to a service provision agreement unless expressly waived in writing by the client under section 2517(3).

(k) Except in the case of property management accounts, fails to deposit in the real estate broker's custodial trust or escrow account money belonging to others coming into the hands of the licensee in compliance with the following:

(i) A real estate broker shall retain a deposit or other money made payable to a person, partnership, corporation, or association holding a real estate broker's license under this article pending consummation or termination of the transaction involved and shall account for the full amount of the money at the time of the consummation or termination of the transaction.

(ii) A real estate salesperson shall pay over to the real estate broker, upon receipt, a deposit or other money on a transaction in which the real estate salesperson is engaged on behalf of the real estate broker.

(iii) A real estate broker shall not permit an advance payment of funds belonging to others to be deposited in the real estate broker's business or personal account or to be commingled with funds on deposit belonging to the real estate broker.

(iv) A real estate broker shall deposit, within 2 banking days after the broker has received notice that an offer to purchase is accepted by all parties, money belonging to others made payable to the real estate broker into a separate custodial trust or escrow account maintained by the real estate broker with a bank, savings and loan association, credit union, or recognized depository until the transaction involved is consummated or terminated, at which time the real estate broker shall account for the full amount received.

(v) A real estate broker shall keep records of funds deposited in its custodial trust or escrow account, which records shall indicate clearly the date and from whom the money was received, the date deposited, the date of withdrawal, and other pertinent information concerning the transaction, and shall show clearly for whose account the money is deposited and to whom the money belongs. The records shall be subject to inspection by the department. A real estate broker's separate custodial

trust or escrow account shall designate the real estate broker as trustee, and the custodial trust or escrow account shall provide for withdrawal of funds without previous notice. This article and the rules promulgated pursuant to this article do not prohibit the deposit of money accepted under this section in a noninterest bearing account of a state or federally chartered savings and loan association or a state or federally chartered credit union.

(vi) If a purchase agreement signed by a seller and purchaser provides that a deposit be held by an escrowee other than a real estate broker, a licensee in possession of such a deposit shall cause the deposit to be delivered to the named escrowee within 2 banking days after the licensee has received notice that an offer to purchase is accepted by all parties.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1993, Act 93, Imd. Eff. July 13, 1993 ;-- Am. 1993, Act 177, Imd. Eff. Sept. 29, 1993 ;-- Am. 1994, Act 125, Imd. Eff. May 16, 1994 ;-- Am. 1994, Act 333, Imd. Eff. Oct. 18, 1994 ;-- Am. 1996, Act 430, Eff. Jan. 1, 1997 ;-- Am. 2000, Act 436, Imd. Eff. Jan. 9, 2001 ;-- Am. 2002, Act 42, Imd. Eff. Mar. 12, 2002 ;-- Am. 2008, Act 90, Eff. July 1, 2008

Popular Name: Act 299

339.2512a Action for collection of compensation for performance of act or contract; allegation and proof.

Sec. 2512a. A person engaged in the business of, or acting in the capacity of, a person required to be licensed under this article, shall not maintain an action in a court of this state for the collection of compensation for the performance of an act or contract for which a license is required by this article without alleging and proving that the person was licensed under this article at the time of the performance of the act or contract.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2512b Actions not constituting participation in real estate transaction or in payment of real estate commissions.

Sec. 2512b. The following actions do not constitute participation in a real estate transaction or in the payment of real estate commissions:

(a) As an owner or an authorized agent of the owner, offering an existing tenant of the owner's property a consideration of a value of 1/2 month's rent or less for referring a prospective tenant to the owner or the authorized agent of the owner for the purpose of entering into a lease agreement.

(b) As an existing tenant of rental property, accepting a consideration of 1/2 month's rent or less for the referral of prospective tenants.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981

Popular Name: Act 299

339.2512c Property management performed by real estate broker.

Sec. 2512c. (1) Except as otherwise provided in this section, all property management duties, responsibilities, and activities performed by a real estate broker and his or her agent engaged in property management shall be governed by and performed in accordance with a property management employment contract.

(2) A real estate broker who engages in property management shall maintain property management accounts separate from all other accounts. Except as provided in this section, a property management account shall be managed in accordance with the property management employment contract.

(3) A property management account may be an interest-bearing account or instrument, unless the property management employment contract provides to the contrary. The interest earned on a property management account shall be handled in accordance with the property management employment contract.

(4) a real estate broker or any designated employee of the real estate broker engaged in property management may be signatory on drafts or checks drawn on property management accounts.

(5) A person who engages in property management shall maintain records of funds deposited and withdrawn from property management

accounts. Property management account records shall indicate the date of the transaction, from whom the money was received or to whom it was given, and other pertinent information concerning the transaction the property management employment contract may require.

(6) A real estate broker engaged in property management shall render an accounting to his or her property management client and remit all money strictly in accordance with the property management employment contract.

(7) All records required to be kept pursuant to this section or pursuant to the property management employment contract shall be subject to inspection by the department.

History: Add. 1994, Act 333, Imd. Eff. Oct. 18, 1994

Popular Name: Act 299

339.2512d Service provision agreement; conduct by real estate broker or real estate salesperson; services; misleading public prohibited; waiver of services in limited service agreement.

Sec. 2512d. (1) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall perform the duties imposed in subsection (2). A real estate broker may authorize a designated agent to represent the client, so long as that authorization is in writing.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement owes, at a minimum, the following duties to his or her client:

(a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.

(b) The performance of the terms of the service provision agreement.

(c) Loyalty to the interest of the client.

(d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.

(e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent.

(f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.

(g) Confidentiality of all information obtained in the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(3) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following services to his or her client:

(a) When the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.

(b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease.

(c) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived.

(d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.

(e) For a broker or associate broker who is involved at the closing of a real estate or business opportunity transaction furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associated broker showing each party all receipts and disbursements affecting that party.

(4) A real estate broker or real estate salesperson representing a seller under a service provision agreement shall not advertise the property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

(5) The services described in subsection (3)(b), (c), and (d) may be waived in a limited service agreement.

History: Add. 2008, Act 90, Eff. July 1, 2008

Popular Name: Act 299

339.2513 Filing bond or posting cash deposit as condition precedent to issuance of license or removal of suspension; action by injured person.

Sec. 2513. If an application for a license is made by a person whose license has been denied, suspended, or revoked as a result of disciplinary action for violation of this article or of the rules promulgated under this article, the department may require as a condition precedent to the issuance of a license to the applicant or the removal of suspension, that the applicant file or have on file with the department a bond for a period not to exceed 5 years, issued by an admitted surety insurer or cash in a sum to be fixed by the department, based upon the magnitude of the operations of the applicant, not to exceed the sum of \$5,000.00 in which this state shall appear as the insured. If the department orders the filing of a bond or the posting of a cash deposit, a person injured by an unlawful act or omission of the applicant may bring an action in a proper court on the bond or a claim against the cash deposit for the amount of the damage suffered as a result to the extent covered by the bond or cash deposit.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2514 Real estate broker or real estate salesperson; nonresident applicant; consent to service of process; application; disposition of process or pleading.

Sec. 2514. A nonresident of this state may become a real estate broker or a real estate salesperson by conforming to the requirements of this article. A nonresident applicant shall file an irrevocable consent that an action may be commenced against the applicant in the proper court of a county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of process or pleading authorized by the laws of this state on the department, the consent stipulating and agreeing that service of process or pleadings on the department shall be taken and held in court to be as valid and binding as if due service had been made upon the applicant in this state. An instrument containing a consent shall be authenticated by a seal, if a corporation, or by the acknowledged signature of a member or officer of the corporation, if otherwise. An application, except from an individual, shall be accompanied by the certified copy of the resolution of the proper officer or managing board authorizing the proper officer to execute the application. If a process or pleading mentioned in this article is served upon the department it shall be by duplicate copies, 1 of which shall be filed in the department and the other immediately forwarded by registered mail to the main office of the applicant against which the process or pleading is directed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980

Popular Name: Act 299

339.2515 Listing agreement; discrimination prohibited; burden of proof; legal and equitable remedies.

Sec. 2515. (1) A listing agreement entered into between the broker and seller or lessor of property shall contain language that discrimination because of religion, race, color, national origin, age, sex, disability, familial status, or marital status on the part of the real estate broker, real estate salesperson, seller, or lessor is prohibited.

(2) This article shall not authorize the department to assume any facts not in evidence or compel a party to prove innocence of charges before the

charges have been proven by the department. The department shall at all times bear the burden of proof to all charges made against a party.

(3) This article shall not diminish the right of a party to pursue and utilize direct and immediate legal or equitable remedies in a court of competent jurisdiction.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1981, Act 83, Imd. Eff. July 1, 1981 ;-- Am. 1993, Act 93, Imd. Eff. July 13, 1993 ;-- Am. 1998, Act 90, Imd. Eff. May 13, 1998

Popular Name: Act 299

339.2516 Repealed. 1981, Act 83, Imd. Eff. July 1, 1981.

Compiler's Notes: The repealed section pertained to renewal fee for license.

Popular Name: Act 299

339.2517 Disclosure of agency relationship.

Sec. 2517. (1) A licensee shall disclose to a potential buyer or seller in a real estate transaction all types of agency relationships available and the licensee's duties that each agency relationship creates before the disclosure by the potential buyer or seller to the licensee of any confidential information specific to that potential buyer or seller.

(2) Unless knowingly waived by execution of a limited service agreement, a real estate broker or real estate salesperson providing services under any service provision agreement shall, at a minimum, provide to the client the duties described in section 2512d(2) and the services described in section 2512d(3).

(3) The disclosure of the type of agency relationship shall be in writing, shall be provided to the client, and shall substantially conform to the following:

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of agency relationship you have with that licensee. A real estate transaction is a transaction involving the sale or lease of any legal or equitable interest in real estate consisting of not less than 1 or not more than 4 residential dwelling units or consisting of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

- (1) An agent providing services under any service provision agreement owes, at a minimum, the following duties to the client:
- (a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.
 - (b) The performance of the terms of the service provision agreement.
 - (c) Loyalty to the interest of the client.
 - (d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.
 - (e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent.
 - (f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.
 - (g) Confidentiality of all information obtained within the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following services to his or her client:

(a) When the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.

(b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease.

(c) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived.

(d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.

(e) For a broker or associate broker who is involved at the closing of a real estate or business opportunity transaction furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associated broker showing each party all receipts and disbursements affecting that party.

Michigan law requires real estate licensees who are acting as agents of sellers or buyers of real property to advise the potential sellers or buyers with whom they work of the nature of their agency relationship.

Seller's Agents

A seller's agent, under a listing agreement with the seller, acts solely on behalf of the seller. A seller can authorize a seller's agent to work with subagents, buyer's agents and/or transaction coordinators. A subagent is one who has agreed to work with the listing agent, and who, like the

listing agent, acts solely on behalf of the seller. Seller's agents and subagents will disclose to the seller known information about the buyer which may be used to the benefit of the seller. Individual services may be waived by the seller through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), and (d) above may be waived by the execution of a limited service agreement.

Buyer's Agents

A buyer's agent, under a buyer's agency agreement with the buyer, acts solely on behalf of the buyer. Buyer's agents and subagents will disclose to the buyer known information about the seller which may be used to benefit the buyer. Individual services may be waived by the buyer through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), or (d) above may be waived by execution of a limited service agreement.

Dual Agents

A real estate licensee can be the agent of both the seller and the buyer in a transaction, but only with the knowledge and informed consent, in writing, of both the seller and the buyer.

In such a dual agency situation, the licensee will not be able to disclose all known information to either the seller or the buyer.

The obligations of a dual agent are subject to any specific provisions set forth in any agreement between the dual agent, the seller, and the buyer.

Licensee Disclosure (check one)

I hereby disclose that the agency status of the licensee named below is:

_____ Seller's Agent

_____ Seller's Agent – limited service agreement

(4) On a separate form, the following information in the following format shall be provided to a client desiring to waive any of the services required under section 2512d(3)(b), (c), and (d) by execution of a limited service agreement:

LIMITED SERVICE AGREEMENT

Pursuant to Michigan law certain services provided by a real estate licensee may be waived. A real estate licensee is required to perform certain services for his or her client unless these services are waived by the client. By signing below, you agree that the real estate licensee will not be required to perform the services initialed (only initial the services waived).

Initial if waived:

- Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease your property or the property you seek to purchase or lease. _____
- Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived. _____
- After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement. _____

Agreement to Waive

By signing below, I acknowledge that the duties owed to me pursuant to Michigan law have been explained to me and that I knowingly agree that the real estate licensee who represents me will not provide the services that are initialed above. I also understand that in any proposed real estate transaction, no other real estate licensee is required to provide the waived services unless I subsequently hire them to do so. I also acknowledge that in order to protect my interests I may need to retain other professionals, such as an attorney.

Seller or Buyer Date

Seller or Buyer Date

Real Estate Broker or Salesperson Date

Brokerage Name

(5) This article does not prevent a licensee from acting as a transaction coordinator upon proper notice to all parties to a real estate transaction.

(6) A broker and a client may enter into a designated agency agreement. In the absence of a written designated agency agreement, a client is considered to have an agency relationship with the broker and all affiliated licensees.

(7) A designated agency agreement shall contain the name of all associate brokers who are authorized to act as supervisory brokers. If designated agents who are affiliated licensees represent different parties in the same real estate transaction, the broker and all supervisory brokers are considered disclosed consensual dual agents for that real estate transaction. Designated agents who are affiliated licensees representing different parties in the same transaction shall notify their clients that their broker represents both buyer and seller before an offer to purchase is made or presented.

(8) Except as otherwise provided in subsection (7), a client with a designated agency agreement is not considered to have an agency relationship with any affiliated licensees of the designated agent. Two designated agents who are affiliated licensees may each represent a different party in the same transaction and shall not be considered dual agents. The designated agent's knowledge of confidential information of a client is not imputed to any affiliated licensee not having an agency relationship with that client.

(9) A designated agent shall not disclose confidential information of a client to any licensee, whether or not an affiliated licensee, except that a designated agent may disclose to any supervisory broker confidential information of a client for purposes of seeking advice or assistance for the benefit of the client. A licensee who represents a client in an agency capacity does not breach any duty or obligation owed to that client by failing to disclose to that client information obtained through a present or prior agency relationship.

(10) A listing agreement or a buyer's agency agreement may be amended to establish a designated agency relationship, to change a designated agent, or to change supervisory brokers at any time pursuant to a written addendum signed by the parties.

(11) As used in this section:

(a) "Affiliated licensees" means individuals licensed as salespersons or associate brokers who are employed by the same broker.

(b) "Buyer" means a purchaser, tenant, or lessee of any legal or equitable interest in real estate.

(c) "Buyer's agent" means a licensee acting on behalf of the buyer in a real estate transaction who undertakes to accept the responsibility of serving the buyer consistent with those fiduciary duties existing under common law.

(d) "Designated agent" means an individual salesperson or an associate broker who is designated by the broker as the client's legal agent pursuant to a designated agency agreement.

(e) "Designated agency agreement" means a written agreement between a broker and a client in which an individual salesperson or associate broker affiliated with that broker is named as that client's designated agent.

(f) "Dual agent" means a licensee who is acting as the agent of both the buyer and the seller and provides services to complete a real estate transaction without the full range of fiduciary duties owed by a buyer's agent and a seller's agent.

(g) "Real estate transaction" means the sale or lease of any legal or equitable interest in real estate where the interest in real estate consists of not less than 1 or not more than 4 residential dwelling units or consists of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

(h) "Seller" means the equitable or legal owner of real estate.

(i) "Seller's agent" means a licensee acting on behalf of the seller in a real estate transaction who undertakes to accept the responsibility of serving the seller consistent with those fiduciary duties existing under common law.

(j) "Supervisory broker" means an associate broker designated in a written agency agreement to act in a supervisory role in an agency relationship.

(k) "Transaction coordinator" means a licensee who is not acting as the agent of either the buyer or the seller.

History: Add. 1993, Act 93, Eff. Jan. 1, 1994 ;-- Am. 2000, Act 236, Imd. Eff. June 27, 2000 ;-- Am. 2000, Act 436, Imd. Eff. Jan. 9, 2001 ;-- Am. 2008, Act 91, Eff. July 1, 2008

Compiler's Notes: In subsection (2)(e), the phrase "associated broker" evidently should read "associate broker".

Popular Name: Act 299

339.2518 Prohibited actions.

Sec. 2518. An action shall not be brought against a real estate broker, an associate broker, or a real estate salesperson under the following circumstances:

(a) For failure to disclose to a purchaser or lessee of real property that a former occupant has or is suspected of having a disability. As used in this section, “disability” means handicap as that term is defined and interpreted under, and disclosure of which would constitute unlawful discrimination under, sections 804, 805, 806, or 817 of the fair housing act, title VIII of the civil rights act of 1968, Public Law 90-284, 42 U.S.C. 3604, 3605, 3606, and 3617.

(b) For failure to disclose to a purchaser or lessee of real property that the real property was or was suspected to have been the site of a homicide, suicide, or other occurrence prohibited by law which had no material effect on the condition of the real property or improvements located on the real property.

(c) For failure to disclose any information from the compilation that is provided or made available under section 8(2) of the sex offenders registration act, 1994 PA 295, MCL 28.728.

History: Add. 1993, Act 93, Imd. Eff. July 13, 1993 ;-- Am. 1998, Act 90, Imd. Eff. May 13, 1998 ;-- Am. 1998, Act 437, Imd. Eff. Dec. 30, 1998

Popular Name: Act 299