OCCUPATIONAL CODE
Act 299 of 1980

AN ACT to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those 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 provide immunity from certain civil liability for certain entities and certain related occupations 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;—Am. 2009, Act 149, Eff. July 1, 2010.

Compiler's note: 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

The People of the State of Michigan enact:

ARTICLE 1

339.101 Short title.

Sec. 101. This act shall be known and may be cited as the "occupational code".

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

Compiler's note: 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 rule-making authority of occupational and health occupation boards and related task forces from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 299

339.102 Meanings of words.

Sec. 102. For purposes of this act, the words defined in sections 103 to 105 have the meanings ascribed to them in those sections.

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

Popular name: Act 299

339.103 Definitions; A to C.

Sec. 103. (1) "Armed forces" means the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard or other military force designated by Congress as a part of the Armed Forces of the United States, including the reserve components.

(2) "Board" means, in each article that deals with a specific occupation, the agency created in that article composed principally of members of the regulated occupation. In all other contexts, board means each agency created under this act.

(3) "Censure" means an expression of disapproval of a licensee's or registrant's professional conduct, which conduct is not necessarily a violation of this act or a rule promulgated or an order issued under this act.

(4) "Competence" means a degree of expertise that enables a person to engage in an occupation at a level that meets or exceeds minimal standards of acceptable practice for the occupation.

(5) "Complaint" means an oral or written grievance.

(6) "Controlled substance" means a drug, substance, or immediate precursor as set forth in section 7212, 7214, 7216, 7218, or 7220 of the public health code, 1978 PA 368, MCL 333.7212, 333.7214, 333.7216, 333.7218, and 333.7220, not excluded under section 7227 of the public health code, 1978 PA 368, MCL 333.7227.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1994, Act 257, Imd. Eff. July 5, 1994;—Am. 2021, Act 26, Eff. Sept. 7, 2021 .

Popular name: Act 299

339.104 Definitions; D to K.

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Sec. 104. (1) "Department" means the department of licensing and regulatory affairs.

(2) "Dependent" means a spouse, surviving spouse, child under 26 years of age, or surviving child under 26 years of age.

(3) "Director" means the director of the department or his or her authorized representative.

(4) "Disability" means an infirmity that prevents a board member from performing a duty assigned to the board member.

(5) "Files" means the records, memoranda, opinions, minutes, and similar written materials that were formerly in the physical dominion of a board abolished by this act and the records, memoranda, opinions, minutes, and similar written materials of a board created under this act.

(6) "Formal complaint" means a document that states the charges of each alleged violation and is prepared by the department or the department of attorney general after a complaint is received by the department.

(7) "General public" means each individual residing in this state who is 18 years of age or older, other than an individual or the spouse of an individual who is licensed or registered in the occupation or who has a material financial interest in the occupation regulated under the specific article in which the term is used.

(8) "Good moral character" means that term as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

(9) "Incompetence" means a departure from, or a failure to conform to, minimal standards of acceptable practice for an occupation.

(10) "Knowledge and skill" means the information, education, practical experience, and the facility in applying that information, education, and practical experience.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2016, Act 412, Eff. Apr. 4, 2017;—Am. 2020, Act 372, Eff. Apr. 4, 2021;—Am. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299

339.105 Definitions; L to V.

Sec. 105. (1) "License" means the document issued to a person under this act that enables the 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 that permits a school, institution, or person to offer training or education in an occupation or that permits the operation of a facility, establishment, or institution in which an occupation is practiced. License includes a permit or approval.

(2) "Licensee" means either of the following, as applicable:

(a) In articles 1 to 6, a person that is licensed or required to be licensed under this act.

(b) In a specific article of this act, a person that is licensed or required to be licensed under that article.

(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 an individual who is licensed as a certified public accountant be filed with the department at regular intervals.

(f) A requirement that reasonably ensures a licensee's or registrant's competence to perform the licensee's or registrant's occupation.

(g) A requirement that an attorney review all contracts of a licensee or registrant.

(h) A requirement that a licensee or registrant have on file with the department a bond that is 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 that 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 under this act.

(5) "Person" means any of the following:

(a) An individual.

(b) A sole proprietorship, partnership, association, corporation, limited liability company, or common law

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trust.

(c) A combination of persons described in subdivision (a) or (b).

(d) A department, board, school, institution, establishment, or governmental entity.

(6) "Physical dominion" means control and possession.

(7) "Physician" means that term as defined in sections 17001 and 17501 of the public health code, 1978 PA 368, MCL 333.17001 and 333.17501.

(8) "Probation" means a sanction that permits a board to evaluate over a period of time a licensee's or registrant's fitness to practice an occupation regulated under this act.

(9) "Public access" means the right of a person to view and copy files under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) "Registrant" means a person that is registered under this act.

(11) "Registration" means the document issued to a person under this act that enables the 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 under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(13) "State" means the District of Columbia or a commonwealth, state, or territory of the United States.

(14) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(15) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2016, Act 502, Eff. Mar. 29, 2017;—Am. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299

ARTICLE 2

339.201 Department of licensing and regulation; appointment of director; designation of persons to investigate licensees or persons against whom complaints lodged.

Sec. 201. The department shall consist of a director as its executive head and other officers and employees appointed or employed by the department. The director shall be appointed by the governor, subject to the advice and consent of the senate, and shall hold office at the pleasure of the governor. The department shall designate only those persons who meet the qualifications for licensure established for an occupation regulated under article 7, 20, or 22 to investigate licensees or persons against whom complaints have been lodged.

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

Compiler's note: 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

339.202 Licensure or registration; application; form; fees; requirements for issuance of license or registration; expiration date.

Sec. 202. (1) An application for licensure or registration shall be made on a form provided by the department and accompanied by the appropriate fees prescribed in article 4. Except as otherwise provided in this act, the department shall issue a license or registration to a person who meets the licensure or registration requirements set forth in a specific article and in rules promulgated under this act, subject to the exceptions set forth in section 203.

(2) The expiration date of a license or registration issued under this act shall be established by rule promulgated by the department under section 205, which rule shall not permit the issuance of a permanent license or registration.

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

Popular name: Act 299

Administrative rules: R 339.1001 et seq. of the Michigan Administrative Code.

339.202a Preliminary determination; procedure; effect.

Sec. 202a. (1) The department shall establish a procedure that allows an individual to obtain a preliminary determination from the department concerning whether any court judgments against him or her would likely result in a denial of a license or registration for failing to meet the good moral character requirement for that license or registration.

(2) All of the following apply for purposes of subsection (1):

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(a) To obtain a preliminary determination under this section, an individual must file a request that meets all of the following:

(*i*) Is submitted on a form provided by the department.

(*ii*) Identifies the license or registration for which he or she may apply.

(*iii*) Includes a detailed description of any criminal proceedings that resulted in a judgment against him or her.

(*iv*) Includes the nonrefundable fee required by the department.

(b) The department shall only consider the information provided by an individual under subdivision (a)(*ii*) and (*iii*) in making a preliminary determination.

(c) A preliminary determination under this section that is adverse to an individual does not prevent the individual from subsequently applying for a license or registration.

(d) The department or a board is not bound by a preliminary determination under this section if the individual applies for a license or registration under this act.

(e) The issuance of a preliminary determination under this section does not limit the authority of the department to review applications for a license or registration, or to issue or deny a license or registration.

(f) The department shall notify an individual of a preliminary determination by delivering a preliminary determination letter to the individual, in a form determined by the department.

(3) An individual shall not request more than 1 preliminary determination under this section in any 120-day period.

History: Add. 2018, Act 455, Eff. Mar. 21, 2019.

339.203 License or registration; issuance upon demonstration of unfair or inadequate requirements; review; fees; limitation; notice; approval or disapproval; practice by person licensed, registered, or certified under repealed act.

Sec. 203. (1) The department may issue a license or registration to a person pursuant to a specific article, if the person demonstrates to the satisfaction of the department and a board that the licensure or registration requirements do not constitute a fair and adequate measure of the person's knowledge and skills or that a required examination for receipt of a license or registration does not serve as an adequate basis for determining whether a person could perform an occupation with competence. The procedure to be followed in obtaining the review by the director and a board is prescribed in article 5. A person shall not have a license or registration issued under this section until the person pays the appropriate fees as prescribed in article 4.

(2) A license or registration issued under this article may be issued with a limitation. The department shall notify the appropriate board of the department's intent to impose a limitation on the issuance of a license or registration of a person seeking a license or registration in the occupation for which the board serves. The department may impose the limitation only with the approval of the notified board. However, if the notified board, within 60 days after receipt of the notification by the department, neither approves nor disapproves the imposition of a limitation, the department may impose the limitation. A person who receives a license or registration with a limitation may receive a review of the limitation as provided in section 519.

(3) Notwithstanding any other provision of this act, a person licensed, registered, or certified under an act repealed by this act to practice an occupation on the day immediately preceding the effective date of this act shall be considered to be appropriately licensed, registered, or certified under this act until the expiration of the licensure, registration, or certification granted under the repealed act.

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

Popular name: Act 299

339.204 License or registration; renewal; requirements; evidence of attendance in continuing education program; waiver; imposition of limitation; review; renewal as responsibility of licensee or registrant; renewal application; failure to notify department of change of address; delivery or service of notice or communication by electronic mail.

Sec. 204. (1) Unless otherwise provided in this act and subject to the limitations under this section, the department shall renew the license or registration of a person that does all of the following:

(a) Applies to the department on a form provided by the department for renewal of a license or registration. The applicant must deliver the application for renewal to the department on or before the expiration date of the person's current license or registration.

(b) Pays the appropriate fees under article 4.

(c) Meets the renewal requirements set forth in a specific article or a rule or order issued under this act.

(2) Except as otherwise provided in this act, a board that requires evidence of attendance in a continuing

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education program as a condition to license renewal may waive that requirement if, after receiving a written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, or absence from the continental United States or due to circumstances beyond the control of the licensee that the board considers sufficient cause to waive the requirement.

(3) Except as otherwise provided in article 7, the department may renew a license or registration under this act with a limitation. The department shall notify the appropriate board of the department's intent to impose a limitation on the renewal of a license of a person seeking license renewal in the occupation for which the board serves. The department may impose the limitation only with the approval of the notified board. However, if the notified board, within 30 days after receipt of the notification by the department, does not approve or disapprove the imposition of a limitation, the department may impose the limitation. A person that receives a license or registration renewed with a limitation may receive a review of that limitation under section 519.

(4) It is the responsibility of the licensee or registrant to renew a license or registration. The department shall send a renewal application to the last known address of a licensee or registrant on file with the department. The failure of a licensee or registrant to notify the department of a change of address does not extend the expiration date of a license or registration and may result in disciplinary action.

(5) A licensee or registrant shall report to the department a change in name or mailing address, or a change of electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (6), not later than 30 days after the change occurs.

(6) If the department is required or permitted under this act to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department, authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address, and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.205 Promulgation of rules.

Sec. 205. The department shall promulgate rules to implement articles 1 to 6 and rules which are necessary and appropriate to enable the department to fulfill its role under this act.

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

Popular name: Act 299

Administrative rules: R 285.901.1 et seq.; R 338.551 et seq.; R 338.581 et seq.; R 338.861 et seq.; R 338.881; R 338.1301 et seq.; R 338.1401 et seq.; R 338.1511 et seq.; R 338.1801 et seq.; R 338.1841 et seq.; R 338.1861; R 338.1901 et seq.; R 338.2001 et seq.; R 338.2101 et seq.; R 338.2401 et seq.; R 338.2601 et seq.; R 338.2701 et seq.; R 338.2801 et seq.; R 338.2841 et seq.; R 338.2901 et seq.; R 338.4001 et seq.; R 338.5101 et seq.; R 339.1001 et seq.; R 339.18901 et seq.; R 339.22101 et seq.; R 339.23101 et seq.; R 431.101 et seq.; and R 451.501 et seq. of the Michigan Administrative Code.

339.206 Examination or test; review and approval of form and content; administration, scoring, and monitoring; providing equipment, examination room, written form, and other items; delegation of duties.

Sec. 206. (1) Before an examination or other test required under this act is administered and except as otherwise provided in this act, the department and the appropriate board, acting jointly, shall review and approve the form and content of the examination or other test. The examination or test shall be structured to provide a measure of whether a person has sufficient knowledge and skills to perform an occupation with competence.

(2) Except as otherwise provided in this act, the department shall administer, score, and monitor the examination or test, but may delegate any or all of those duties to a board or to any other person.

(3) Except as otherwise provided in this act, the department shall provide the equipment, examination room, written form, and any other item needed to administer the examination or test, but may delegate all or any of these duties to a board or any other person.

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

Popular name: Act 299

339.207 Licensing or approval of school, institution, or other person offering training or education; approval or recognition of continuing education program; processing request

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within certain period of time; recommendation by board; request.

Sec. 207. (1) If provided in an article, the department may issue a license to, or grant approval to, a school, institution, or other person offering training or education in an occupation.

(2) If provided in an article, the department may grant approval or recognition to a program of continuing education, unless the approval or recognition of the program is the responsibility of a board.

(3) The department shall process a request under subsection (1) within 90 days after the submission of the completed application in the manner described in section 411(6), which 90-day period includes the time period described in subsection (4) regarding board approval.

(4) A board shall make a recommendation on the licensure or approval or recognition of a school, institution, or other person or a program within 90 days after a request for that recommendation is made by the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2004, Act 264, Imd. Eff. July 23, 2004.

Popular name: Act 299

339.208 Files of board; physical dominion; public access.

Sec. 208. The department shall have physical dominion over the files of each board. The department shall ensure that applicable laws concerning public access to the files are met.

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

Popular name: Act 299

339.209 Office services; administrative and secretarial staff, clerks, and employees.

Sec. 209. (1) The department shall furnish office services to each board and perform managerial, administrative, and budgetary functions for each board.

(2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary for the proper exercise of the powers and duties of a board.

(3) The department, subject to the strictures imposed by the civil service commission, may fire, suspend, promote, demote, or transfer a person providing administrative or secretarial service for a board.

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

Popular name: Act 299

339.210 Contracting with persons or agencies to implement act and fulfill responsibilities of department or board; electronic continuing education tracking system; agreement; provisions; rules.

Sec. 210. (1) The department, on its own behalf and on behalf of a board created under this act, may contract with persons or agencies who are not employees or agencies of the department to implement this act and to fulfill the responsibilities of the department or a board.

(2) Under subsection (1), the department may enter into an agreement with any of the following to provide an electronic continuing education tracking system that provides an electronic record of the continuing education courses, classes, or programs completed by individuals who are licensed or registered under this act:

(a) For individuals who are licensed under article 7, a statewide accountancy trade organization.

(b) For individuals who are licensed under article 25, a statewide real estate trade organization.

(c) For the individuals who are licensed or registered under all of the other specific articles of this act, except the individuals described in subdivision (a) or (b), an entity that is not an agency of a state or the federal government.

(3) All of the following apply to an electronic system provided by an agreement under subsection (2):

(a) All continuing education tracking provided by the system must accurately reflect the continuing education requirements under this act and rules promulgated under this act.

(b) A confirmation of completion of continuing education requirements generated by the system is considered verification of completion of those requirements for renewal of a license or registration and for purposes of any audit of licensees or registrants conducted by the department.

(c) The system must provide access to continuing education information about an individual who is licensed or registered under this act to the individual, to the appropriate board for the individual's occupation, and to the department.

(4) The department shall promulgate any rules it considers appropriate to implement and administer subsections (2) and (3).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2016, Act 30, Eff. June 6, 2016.

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Popular name: Act 299

339.211 Orientation program for board members.

Sec. 211. The department shall provide a comprehensive orientation program for each individual appointed and confirmed as a member of a board.

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

Popular name: Act 299

339.212 Annual report.

Sec. 212. The department shall prepare and publish an annual report describing the activities of the department and each agency created pursuant to this act. The annual report shall be filed with the governor and the legislature.

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

Popular name: Act 299

339.213 Temporary license or certificate of registration; nonrenewable; validity; applicant married to member of armed forces; limitation.

Sec. 213. (1) If a person has not previously been denied a license or a certificate of registration or had a license or a certificate of registration revoked or suspended, the department may grant a nonrenewable temporary license or certificate of registration to an applicant for licensure or registration or transfer of licensure or registration under any of articles 7 to 26a. If approved by a board, a temporary license or certificate of registration issued under this subsection is valid until 1 or more of the following occurs:

(a) The results of the next scheduled examination are available.

(b) The results of the next required evaluation procedure are available.

(c) A license or certificate of registration is issued.

(d) The next examination date of an examination for licensure or registration in the applicable occupation, if the applicant does not take the examination.

(e) The applicant fails to meet the requirements for a license or certificate of registration.

(f) A change in employment is made.

(2) In addition to a temporary license or certificate of registration under subsection (1), beginning September 9, 2014, the department shall grant a temporary license or certificate of registration for an occupation under this act to an applicant who meets both of the following:

(a) He or she provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran.

(b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that occupation, issued by an equivalent licensing department, board, or authority, as determined by the department, in consultation with the board, in another state of the United States or a foreign country.

(3) A temporary license or registration issued under subsection (2) is valid for 6 months and may be renewed for 1 additional 6-month term if the department determines the temporary licensee or registrant continues to meet the requirements of subsection (2) and needs additional time to fulfill the requirements for initial licensure or registration in this state. The department may place a limitation on a temporary license or certificate of registration granted under this section.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2014, Act 149, Imd. Eff. June 11, 2014;—Am. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299

339.214 Applicant whose records unavailable from foreign country; examination; reciprocal license.

Sec. 214. An applicant for licensure or registration pursuant to articles 8 to 25 whose records relative to education or experience required by an article are unavailable from a foreign country shall be allowed, upon approval of the board and the department, to take an examination or apply for a reciprocal license upon submitting the following to the department:

(a) A notarized affidavit approved by the department stating the total number of years of education received, the name of the school or schools attended, the dates each school was attended, the degree obtained, the courses taken, the grades received, and the names of each former employer.

(b) A notarized statement approved by the department from a governmental official testifying to unavailability of the necessary records.

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

Popular name: Act 299

339.215, 339.216 Repealed. 1994, Act 257, Imd. Eff. July 5, 1994.

Compiler's note: The repealed sections pertained to creation of the commission on professional and occupational licensure and recommendations made to the legislature.

Popular name: Act 299

339.217 License or certificate of registration without examination; member of armed forces, veteran, or dependent of member or veteran; requirements.

Sec. 217. (1) Subject to subsection (2), the department shall issue a license or a certificate of registration for an occupation under this act without examination to an individual who demonstrates to the satisfaction of the department that he or she meets all of the following at the time of application:

(a) Provides proof that the individual is 1 of the following:

(*i*) A member of the armed forces or uniformed services.

(*ii*) A veteran.

(*iii*) A dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(b) Holds a valid license or registration in that occupation from an equivalent licensing department, board, or authority, as determined by the department, in at least 1 other state of the United States. For each license or registration described in this subdivision that he or she holds, all of the following must be met:

(*i*) The license or registration is in good standing and he or she has held that license or registration for at least 1 year.

(*ii*) There were minimum education requirements and, if applicable, work experience requirements in effect for licensure or registration in the other state, and the other state verifies that he or she met those requirements for licensure or registration in that state.

(*iii*) If the other state required an examination for licensure or registration, he or she passed the examination.

(*iv*) The requirements for licensure or registration in the other state are substantially equivalent to or exceed the requirements of this act and any rule promulgated under this act for the license or registration.

(c) Has not had a license or registration revoked, and has not voluntarily surrendered a license or registration, in any other state of the United States or a foreign country while under investigation for unprofessional conduct.

(d) Has not had discipline imposed by any equivalent licensing department, board, or authority in another state of the United States. If another state of the United States has taken disciplinary action against the applicant, the department shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that other state, the department shall not issue or deny a license or registration until the matter is resolved.

(e) Does not have a complaint, allegation, or investigation pending before an equivalent licensing department, board, or authority in another state of the United States or a foreign country that relates to unprofessional conduct. If the applicant has any complaints, allegations, or investigations pending, the department shall suspend the application process and shall not issue or deny a license or registration to the applicant until the complaint, allegation, or investigation is resolved.

(f) Pays all applicable fees.

(g) Is of good moral character.

(h) Meets the age requirement of that occupation under this act, if applicable.

(2) If the department determines that the issuance of a license or a certificate of registration under subsection (1) for an occupation under this act may result in a violation of a federal oversight or licensing guideline for that occupation, the department shall not issue a license or a certificate of registration.

(3) This section does not prevent the department from issuing a temporary license under section 213, a courtesy license under section 1806a, or issuing a license under section 726, 1108(2), 1211, 1806(9), 2013, 2209, or 2623.

History: Add. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299

ARTICLE 3

339.301 Boards; composition; qualifications of members; director as ex officio member.

Sec. 301. Each board shall consist of 9 voting members. Except as otherwise provided in this act, 6 of the members of a board shall be individuals who have a license or registration in the occupation which the board

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monitors. Except as otherwise provided in this act, 3 of the members of a board shall represent the general public. The director shall be an ex officio member without vote of a board, but is not a member for purposes of section 5 of article V of the state constitution of 1963 or for determining a quorum. A member, in addition to fulfilling the requirements set forth in an article, shall be not less than 18 years of age and shall be a resident of this state.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990.

Compiler's note: 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

339.302 Nomination and appointment of board members.

Sec. 302. The governor shall appoint an individual as a member of a board with the advice and consent of the senate, including an individual appointed to fill a vacancy on a board. In making an appointment, the governor shall seek nominations from a wide range of interested groups and persons, including appropriate professional associations, consumer associations, labor unions, and other organizations or individuals.

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

Popular name: Act 299

339.303 Terms of board members; vacancy; appointment and removal of members; qualifications; terms.

Sec. 303. (1) The term of a member appointed to a board shall be 4 years except that an individual appointed to fill a vacancy on a board which vacancy results from a member's resignation, death, disability, or removal for cause by the governor shall serve for the balance of the term of the member replaced and may be reappointed for not more than 2 full terms. A vacancy shall be filled in the same manner as the original appointment was made. The governor shall appoint an individual as a member of a board, subject to the advice and consent of the senate, within 60 days after a vacancy occurs and within 60 days after the senate disapproves an appointment by the governor. The governor may remove a member of a board or committee in accordance with section 10 of article V of the state constitution of 1963.

(2) Except as provided in subsection (1), an individual shall not be appointed to or serve for more than 2 consecutive terms.

(3) Subject to subsection (4), for a board created or first appointed on or after January 1, 1990, the governor may appoint, as the initial members of the board who are required to be licensed or registered, individuals who meet either or both of the following qualifications:

(a) Are certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the occupation to be licensed or registered by the board.

(b) Have actively practiced the occupation licensed or registered by the board or taught in an educational institution which prepares applicants for licensure or registration in that occupation, or a combination of both, for not less than the 2 years immediately preceding their appointment.

(4) Within 3 years after October 17, 1990, each individual appointed under subsection (3) shall be licensed or registered in the occupation licensed or registered by the board to which the individual was appointed.

(5) Of the initial members of a board created or first appointed after January 1, 1990, the terms of 3 of the members, including 2 of the members who have a license or registration in the occupation which the board monitors and 1 of the members representing the general public, shall be 4 years; the terms of 2 of the members, including 1 of the members who has a license or registration in the occupation which the board monitors and 1 of the members representing the general public, shall be 3 years; the terms of 2 of the members, including 1 of the members who has a license or registration in the occupation which the board monitors and 1 of the members who represents the general public, shall be 2 years; and the terms of the remaining members shall be 1 year.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990;—Am. 1994, Act 257, Imd. Eff. July 5, 1994.

Popular name: Act 299

339.303a Commencement of terms; dates.

Sec. 303a. The term of office of a member of a board appointed under this article shall commence on 1 of the following dates, as applicable:

Accountancy	July 1
Architects	April 1

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Barbers	October 1
Collection agencies	July 1
Cosmetology	January 1
Employment agencies	October 1
Hearing aid dealers	October 1
Land surveyors	April 1
Landscape architects	July 1
Mortuary science	July 1
Professional engineers	April 1
Real estate appraisers	July 1
Real estate brokers and salespersons	July 1
Residential builders	April 1

History: Add. 1990, Act 269, Imd. Eff. Oct. 17, 1990;—Am. 1995, Act 104, Imd. Eff. June 23, 1995;—Am. 1995, Act 183, Imd. Eff. Oct. 23, 1995;—Am. 2006, Act 489, Eff. Oct. 1, 2007;—Am. 2014, Act 265, Imd. Eff. July 1, 2014.

Popular name: Act 299

339.304 Compensation and expenses of board members.

Sec. 304. Annually the legislature shall fix the per diem compensation of a member of a board. Travel or other expenses incurred by a member of a board in the performance of an official function shall be payable by the department pursuant to the standardized travel regulations of the department of management and budget.

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

Popular name: Act 299

339.305 Board; meetings; quorum; voting by proxy prohibited; conduct of meeting; availability of files.

Sec. 305. (1) A board shall meet as often as necessary to fulfill its duties under this act, but shall meet not less than 2 times a year and at other dates set by the director. A majority of the members appointed and serving shall constitute a quorum. A member of a board shall not vote by proxy. A board shall conduct its meetings pursuant to Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) The files of the board shall be available to the public under section 208.

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

Popular name: Act 299

339.306 Board; election of officers; vacancy; bylaws; report.

Sec. 306. (1) Annually a board shall elect a chairperson, a vice-chairperson, and other officers the board determines necessary. A board may fill a vacancy in an office of the board for the balance of the 1-year term.

(2) A board may adopt bylaws for the regulation of its internal affairs.

(3) A board shall report its activities to the department annually and as often as the director orders.

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

Popular name: Act 299

339.307 Board; creation within department; duties; attendance of board member at informal conference; assisting department.

Sec. 307. (1) Each board created by this act shall be created within the department.

(2) A board's duties shall include the interpretation of a licensure or registration requirement of an article, and, if necessary, the furnishing of aid in an investigation conducted under article 5. At the discretion of the board, a member of that board may attend an informal conference conducted under section 508. A board shall assist the department in the implementation of this act.

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

Popular name: Act 299

339.308 Promulgation of rules.

Sec. 308. (1) A board shall promulgate rules as required in the article in which it is created as are necessary and appropriate to fulfill its role.

(2) A board may promulgate rules to set the minimal standards of acceptable practice for an occupation for which the board is created.

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

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Popular name: Act 299

Administrative rules: R 338.1511 et seq.; R 338.2101 et seq.; R 338.5101 et seq.; R 339.601; R 339.6001 et seq.; R 339.14001 et seq.; R 339.15101 et seq.; R 339.16001 et seq.; R 339.17101 et seq.; R 339.18001 et seq.; R 339.18901 et seq.; R 339.19001 et seq.; R 339.22101 et seq.; and R 339.23101 et seq. of the Michigan Administrative Code.

339.309 Assessment of penalties.

Sec. 309. A board, upon completion of a hearing conducted pursuant to section 511, shall assess a penalty or penalties as provided in article 6.

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

Popular name: Act 299

339.310 Aiding department in interpreting licensure or registration requirements.

Sec. 310. A board shall aid the department in interpreting a licensure or registration requirement set forth in this act which is incomplete or subjective in nature to determine whether the person seeking a license or a certificate of registration or a renewal has met the requirements for the issuance or renewal.

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

Popular name: Act 299

339.313 Recommending licensure of school, institution, or other person; recommending approval or recognition of program offering training or education.

Sec. 313. (1) A board shall recommend to the department whether to grant licensure to a school, institution, or other person or approval or recognition of a program which offers training or education in the occupation for which the board is created, unless it is the board's function to grant the licensure, approval, or recognition.

(2) Before recommending the licensure, approval, or recognition of a school, institution, or other person or a program, a board shall ascertain whether the school, institution, or other person or program provides the type of training which will provide a graduate with the knowledge and skills required to perform the occupation with competence.

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

Popular name: Act 299

339.314 Recommending approval or recognition of continuing education program.

Sec. 314. A board shall recommend to the department the approval or recognition of a program of continuing education which is required by an article, unless it is the board's function to grant the approval or recognition.

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

Popular name: Act 299

339.315 Failure to receive licensure, approval, or recognition; protest; review.

Sec. 315. A school, institution, or other person which fails to receive licensure or approval, or approval or recognition of a program offered by the school, institution, or person may protest that decision and be granted an opportunity for review of that decision by the department under section 520 or 521.

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

Popular name: Act 299

339.316 Examination or test; development; consideration of material in closed session; alternative form of testing.

Sec. 316. (1) Unless otherwise provided in an article, a board and the department shall develop an examination or test required by an article. The board and the department in developing an examination or test may adopt an examination or test prepared by another agency if the board and the department determine that the examination or test serves as a basis for determining whether a person has the knowledge and skills to perform an occupation with competence.

(2) The material required by the board and the department to develop an examination or test may be considered by the board in a closed session, if the board meets the requirements of section 7 of the open meetings act, 1976 PA 267, MCL 15.267.

(3) A board and the department, in determining the form the recommended examination or test shall take, shall give special emphasis to an alternative form of testing which permits a person to demonstrate a special qualification a person may have which is not evident under a written examination, but which is related to an occupation. The alternative form of testing shall be structured to give weight to a person's experience,

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noninstitutional training, and innate skills and shall be flexible enough to enable a person with a mental or physical disability to demonstrate that the person has the requisite knowledge and skills.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1998, Act 90, Imd. Eff. May 13, 1998.

Popular name: Act 299

339.317 Surrendering files of abolished board; personnel, office space, and items or equipment to be utilized by successor board.

Sec. 317. (1) A board abolished under this act shall surrender physical dominion over any files to the department.

(2) The successor board, until the department determines otherwise, shall utilize the personnel, office space, and items or equipment which were utilized by the abolished board and which are needed for the board to function.

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

Popular name: Act 299

ARTICLE 4

339.401 Specific amounts to be charged for licenses, registrations, and other activities.

Sec. 401. The specific amounts to be charged for licenses, registrations, and other activities provided for in this act shall be as prescribed in the state license fee act, Act No. 152 of the Public Acts of 1979, being sections 338.2201 to 338.2277 of the Michigan Compiled Laws.

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

Compiler's note: 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

339.402 Definitions.

Sec. 402. As used in this article:

(a) "Expiration date" means the date prescribed in rules promulgated by the department in accordance with section 202(2).

(b) "Reinstatement" means the granting of a license or registration, with or without limitations or conditions, to a person whose license or registration has been revoked.

(c) "Relicensure" means the granting of a license to a person whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(d) "Reregistration" means the granting of a registration to a person whose registration has lapsed for failure to renew the registration within 60 days after the expiration date.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.403 Collection of fees charged under contract; termination of contract.

Sec. 403. (1) This act does not prohibit a person who has a contract with the department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.

(2) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession, and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is increased under the state license fee act, Act No. 152 of the Public Acts of 1979, being sections 338.2201 to 338.2277 of the Michigan Compiled Laws.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.405 Nonrefundable application processing fee; examination or inspection fee; fee for initial license or registration period.

Sec. 405. An application for a license or registration shall be accompanied by a nonrefundable application processing fee. The department may also require that the application be accompanied by the fee for a required examination or inspection or the fee for the initial license or registration period.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

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Popular name: Act 299

339.407 Examination fee; forfeiture; reexamination fee; publication of application deadline.

Sec. 407. (1) An individual who is required to take an examination shall pay an examination fee before being scheduled for an examination.

(2) An individual who is scheduled for examination or reexamination and who fails to appear shall forfeit the examination fee.

(3) An individual who fails all or part of an examination may be reexamined, if eligible, after paying for the complete examination or such parts of the examination as must be repeated.

(4) The department shall publish in its application instructions the deadline by which applications must be received in order for an applicant to be scheduled for a required examination.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.409 Payment of fee as condition to issuance of license and registration; amount; period for completion of requirements for licensure or registration; forfeiture of fees; effect of void application.

Sec. 409. (1) Except as otherwise provided in section 411, the department shall not issue a license or registration to a person who has completed the requirements for a license or registration or who seeks to renew a license or registration until the person has paid the license or registration fee.

(2) License and registration fees shall be prescribed on a per year basis. If licenses and registrations are established by rules promulgated by the department under section 202 as biennial or triennial renewals, the fee required shall be twice or 3 times, as appropriate, the per year amount.

(3) Unless otherwise provided by this act or rules promulgated under this act, all requirements for licensure or registration shall be completed by the applicant within 1 year after receipt of the application by the department or mailing of a notice of an incomplete application to the last known address on file with the department, whichever is later. If the requirements are not completed, the fees paid shall be forfeited to the department and the application shall be void. A person whose application has been determined to be void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt by the department of the new application.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2002, Act 611, Imd. Eff. Dec. 20, 2002;—Am. 2004, Act 264, Imd. Eff. July 23, 2004.

Popular name: Act 299

339.411 Failure to renew license or registration; conditions to relicensing or reregistration; report; exceptions; mobilized for military duty status; temporary exemption; "completed application" defined.

Sec. 411. (1) Subject to subsection (2), a person that fails to renew a license or registration on or before the expiration date shall not practice the occupation, operate, or use the title of that occupation after the expiration date printed on the license or registration. A license or registration shall lapse on the day after the expiration date.

(2) A person that fails to renew a license or registration on or before the expiration date is permitted to renew the license or registration by payment of the required license or registration fee and a late renewal fee within 60 days after the expiration date.

(3) Except as otherwise provided in this act, a person that fails to renew a license or registration within the time period set forth in subsection (2) may be relicensed or reregistered without examination and without meeting additional education or training requirements in force at the time of application for relicensure or reregistration if all of the following conditions are met:

(a) The person applies within 3 years after the expiration date of the last license or registration.

(b) The person pays an application processing fee, the late renewal fee, and the per year license or registration fee for the upcoming licensure or registration period, subject to subsection (8).

(c) Any penalties or conditions imposed by disciplinary action in this state or any other jurisdiction have been satisfied.

(d) The person submits proof of having completed the equivalent of 1 year of continuing education within the 12 months immediately preceding the date of application or as otherwise provided in a specific article or by rule, if continuing education is required of licensees or registrants under a specific article.

(4) Except as otherwise provided in this act, a person may be relicensed or reregistered subsequent to 3 or more years after the expiration date of the last license or registration if the person shows that the person meets

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the requirements for licensure or registration as established by the department in rules or procedures, which may require a person to pass all or part of a required examination, to complete continuing education requirements, or to meet current education or training requirements.

(5) Unless otherwise provided in this act, a person that seeks reinstatement of a license or registration shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the appropriate board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the department or board. The procedure for conducting the review of a petition for reinstatement is prescribed in article 5. If approved for reinstatement, the person shall pay the per year license or registration fee for the upcoming license or registration period if appropriate, in addition to completing any requirements imposed under section 203(2).

(6) The department shall issue an initial or renewal license or registration not later than 90 days after the applicant files a completed application. The application is considered received on the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled from the date the department notifies the applicant of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license or registration and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or registration.

(7) Notwithstanding the time periods described in subsection (6), in the case of a real estate broker and associate broker licensed under article 25, the time period for approval by the department of a completed application is 30 days and the time period for notification sent in writing, or made electronically available, by the department to the applicant regarding an incomplete application is 15 days after the receipt of the application by any agency or department of this state.

(8) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license or registration fee, and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. A failure to issue or deny a license or registration within the time required under this section does not allow the department to otherwise delay the processing of the application, and the department shall place that application, when completed, in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the license or registration fee was refunded or discounted under this subsection.

(9) The director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding state fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (6) and the 30-day time period described in subsection (7).

(b) The number of applications denied by the department.

(c) The number of applicants that were not issued a license or registration within the applicable time period and the amount of money returned to licensees and registrants under subsection (8).

(d) The number of applications denied by the department because of an applicant's lack of good moral character and a summary, by category of offense, of the criminal convictions on which those denials were based.

(10) Subsection (6) does not apply to a license or registration for any of the following:

(a) A certified public accountant and registered accountant under article 7.

(b) An agency non-owner manager of a collection agency under article 9.

(c) A barber, student barber, student instructor, or barber instructor under article 11.

(d) An employment and consulting agent of a personnel agency under article 10.

(e) A cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, instructor, or registered student under article 12.

(f) A hearing aid salesperson and trainee under article 13.

(g) A mortuary science licensee, embalmer, or resident trainee in mortuary science under article 18.

(h) An individual architect, surveyor, or engineer under article 20.

(i) An individual landscape architect under article 22.

(j) An individual residential builder and alteration and maintenance contractor or a salesperson for a

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residential builder and alteration and maintenance contractor under article 24.

(k) A real estate salesperson under article 25.

(*l*) A real estate appraiser under article 26.

(11) Notwithstanding any provision in this act to the contrary, an individual or qualifying officer who is a licensee or registrant under this act and who is mobilized for military duty in the Armed Forces of the United States by the President of the United States is temporarily exempt from any renewal license fee, continuing education requirements, or other related requirements of this act applicable to that license or registration. It is the obligation of the licensee or registrant to inform the department by written or electronic mail of the desire to exercise the temporary exemption under this subsection. If the licensee applying for the temporary exemption is the individual responsible for supervision and oversight of licensed activities, the licensee shall provide notice of arrangements for adequate provision of that supervision and oversight to the department. The licensee or registrant shall accompany the request with proof, as determined by the department, to verify the mobilized duty status. If it receives a request for a temporary exemption under this subsection, the department shall make a determination of the requestor's status and grant the temporary exemption after verification of mobilized duty status under this subsection. A temporary exemption is valid until 90 days after the licensee's or registrant's release from the mobilized duty on which the exemption was based, but shall not exceed 36 months from the date of expiration of the license or registration.

(12) As used in this section, "completed application" means an application that is complete on its face and submitted with any applicable licensing or registration fees and any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1989, Act 261, Eff. Jan. 1, 1990;—Am. 2002, Act 611, Imd. Eff. Dec. 20, 2002;—Am. 2004, Act 264, Imd. Eff. July 23, 2004;—Am. 2004, Act 373, Imd. Eff. Oct. 11, 2004;—Am. 2008, Act 309, Imd. Eff. Dec. 18, 2008;—Am. 2014, Act 265, Imd. Eff. July 1, 2014;—Am. 2020, Act 388, Eff. Apr. 4, 2021.

Popular name: Act 299

Administrative rules: R 339.1001 et seq.; R 339.3101 et seq.; R 339.15101 et seq.; R 339.16001 et seq.; R 339.17101 et seq.; R 339.18001 et seq.; and R 339.19001 et seq. of the Michigan Administrative Code.

ARTICLE 5

339.501 Lodging or filing complaint.

Sec. 501. A complaint which alleges that a person has violated this act or a rule promulgated or an order issued under this act shall be lodged with the department. The department of attorney general, the department, a board, or any other person may file a complaint.

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

Compiler's note: 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

339.501a Definitions.

Sec. 501a. As used in this article:

(a) "Complainant" means a person who has filed a complaint with the department alleging that a person has violated this act or a rule promulgated or an order issued under this act. If a complaint is made by the department, the director shall designate 1 or more employees of the department to act as the complainant.

(b) "Respondent" means a person against whom a complaint has been filed who may be a person who is or is required to be licensed or registered under this act.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

Administrative rules: R 339.1001 et seq.; R 339.3101 et seq.; R 339.15101 et seq.; R 339.16001 et seq.; R 339.17101 et seq.; R 339.18001 et seq.; and R 339.19001 et seq. of the Michigan Administrative Code.

339.502 Investigation; correspondence file; acknowledgment of complaint; complaint made by department.

Sec. 502. The department, upon receipt of a complaint, immediately shall begin its investigation of the allegations of the complaint and shall open a correspondence file. The department shall make a written acknowledgment of the complaint within 15 days after receipt of the complaint to the person making the complaint. If the complaint is made by the department, the director shall designate 1 or more employees of the department to act as the person making the complaint.

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

Popular name: Act 299

339.503 Investigation; petition to issue subpoena.

Sec. 503. The department shall conduct the investigation required under section 502. In furtherance of that investigation, the department may request that the attorney general petition the circuit court to issue a subpoena requiring a person to appear before the department and be examined with reference to a matter within the scope of the investigation and to produce books, papers, or documents pertaining to the investigation.

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

Popular name: Act 299

339.504 Investigation; status report; time extension; closing and reopening complaint; preparation of appropriate action; informal conference.

Sec. 504. (1) The investigative unit of the department, within 30 days after the department receives the complaint, shall report to the director on the status of the investigation. If, for good cause shown, an investigation cannot be completed within 30 days, the director may extend the time in which a report may be filed. The total number of extensions permitted under this section shall be included in the report required by section 212.

(2) If the report of the investigative unit of the department does not disclose a violation of this act or a rule promulgated or an order issued under this act, the complaint shall be closed by the department. The reasons for closing the complaint shall be forwarded to the respondent and complainant, who then may provide additional information to reopen the complaint.

(3) If the report of the investigative unit made pursuant to subsection (1) discloses evidence of a violation of this act or a rule promulgated or an order issued under this act, the department or the department of attorney general shall prepare the appropriate action against the respondent which may be any of the following:

(a) A formal complaint.

(b) A cease and desist order.

(c) A notice of summary suspension.

(d) A citation.

(4) At any time during its investigation or after the issuance of a formal complaint, the department may bring together the complainant and the respondent for an informal conference. At the informal conference, the department shall attempt to resolve issues raised in the complaint and may attempt to aid the parties in reaching a formal settlement or stipulation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

Administrative rules: R 339.1001 et seq.; R 339.3101 et seq.; R 339.15101 et seq.; R 339.16001 et seq.; R 339.17101 et seq.; R 339.18001 et seq.; and R 339.19001 et seq. of the Michigan Administrative Code.

339.505 Summary suspension of license or certificate of registration; order; affidavit; petition to dissolve order; hearing; granting requested relief; record.

Sec. 505. (1) After an investigation has been conducted, the department may issue an order summarily suspending a license or a certificate of registration issued pursuant to articles 8 to 25 based on an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit on information and belief, that an imminent threat to the public health, safety, and welfare exists. Thereafter, the proceedings described in this article shall be promptly commenced and decided.

(2) A person whose license or certificate of registration has been summarily suspended under this section may petition the department to dissolve the order. Upon receiving a petition, the department immediately shall schedule a hearing to decide whether to grant or deny the requested relief.

(3) An administrative law hearings examiner shall grant the requested relief dissolving the summary suspension order, unless sufficient evidence is presented that an imminent threat to the public health, safety, and welfare exists which requires emergency action and continuation of the director's summary suspension order.

(4) The record created at the hearing to dissolve a summary suspension order shall become part of the record on the complaint at a subsequent hearing in a contested case.

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

Popular name: Act 299

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339.506 Cease and desist order; hearing; request; application to restrain and enjoin further violation.

Sec. 506. (1) After an investigation has been conducted, the director may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

(2) A person ordered to cease and desist shall be entitled to a hearing before the department if a written request for a hearing is filed within 30 days after the effective date of the order.

(3) Upon a violation of a cease and desist order issued under this act, the department of the attorney general may apply in the circuit court of this state to restrain and enjoin, temporarily or permanently, or both, a person from further violating a cease and desist order.

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

Popular name: Act 299

339.507 Informal conference; criminal prosecution; other action authorized by act.

Sec. 507. A summary suspension order, cease and desist order, or injunctive relief issued or granted in relation to a license or certificate of registration issued pursuant to articles 8 to 25 shall be in addition to and not in place of an informal conference; criminal prosecution; or proceeding to deny, revoke, suspend, or place a limitation on, a license or certificate of registration or any other action authorized by this act.

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

Popular name: Act 299

339.508 Formal complaint and notice; service; options; attendance at informal conference; methods of settlement; representation.

Sec. 508. (1) After an investigation has been conducted and a formal complaint prepared, the department shall serve the formal complaint upon the respondent and the complainant. At the same time, the department shall serve the respondent with a notice describing the compliance conference and hearing processes and offering the respondent a choice of 1 of the following opportunities:

(a) An opportunity to meet with the department to negotiate a settlement of the matter.

(b) If the respondent is a licensee or registrant under this act, an opportunity to demonstrate compliance prior to holding a contested case hearing, as required by section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws.

(c) An opportunity to proceed to a contested case hearing as set forth in section 71 of Act No. 306 of the Public Acts of 1969, being section 24.271 of the Michigan Compiled Laws.

(2) A respondent upon whom service of a formal complaint has been made pursuant to this section may select, within 15 days after the receipt of notice, 1 of the options described in subsection (1). If a respondent does not select 1 of those options within the time period described in this section, then the department shall proceed to a contested case hearing as described in subsection (1)(c).

(3) An informal conference may be attended by a member of the board, at the discretion of that board, or by a member of a committee and may result in a settlement, consent order, waiver, default, or other method of settlement agreed upon by the parties and the department. A settlement may include the revocation, suspension, or limitation of a license or registration; censure; probation; restitution; or a penalty provided for in article 6. A board may reject a settlement and require a contested case hearing under section 71 of Act No. 306 of the Public Acts of 1969, as amended, being section 24.271 of the Michigan Compiled Laws.

(4) An authorized employee or agent of the department may represent the department in any contested case hearing held pursuant to Act No. 306 of the Public Acts of 1969.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

339.510 Showing compliance with act, rule, or order.

Sec. 510. This act does not prevent a person against whom a complaint has been filed from showing compliance with this act, or a rule or an order promulgated or issued under this act, under section 92 of Act No. 306 of the Public Acts of 1969, as amended.

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

Popular name: Act 299

339.511 Hearing.

Sec. 511. If an informal conference is not held or does not result in a settlement of a complaint, a hearing pursuant to section 92 of Act No. 306 of the Public Acts of 1969, as amended, shall be held. A hearing under

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this section may be attended by a member of a board.

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

Popular name: Act 299

339.512 Subpoena.

Sec. 512. The department or the department of the attorney general may petition a circuit court to issue a subpoena which shall require the person subpoenaed to appear or testify or produce relevant documentary material for examination at a proceeding conducted under section 511 or 508.

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

Popular name: Act 299

339.513 Findings of fact and conclusions of law; hearing report; copies; complaint involving professional standards of practice.

Sec. 513. (1) Except as provided in subsection (3), at the conclusion of a hearing conducted under section 511, the administrative law hearings examiner shall submit a determination of findings of fact and conclusions of law to the department and the department of the attorney general and the appropriate board in a hearing report. The submitted hearing report may recommend the penalties to be assessed as prescribed in article 6.

(2) A copy of a hearing report shall be submitted to the person who made the complaint and to the person against whom the complaint was lodged.

(3) For a complaint involving professional standards of practice under article 7, a majority of the members of the board who have not participated in an investigation of the complaint or who have not attended an informal conference, shall sit to make findings of fact in relation to the complaint.

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

Popular name: Act 299

339.514 Determination of penalties to be assessed; hearing report; transcript; time limit; board member prohibited from participating in final determination.

Sec. 514. (1) Within 60 days after receipt of an administrative law hearings examiner's hearing report, the board receiving the hearing report shall meet and make a determination of the penalties to be assessed under article 6. The board's determination shall be made on the basis of the administrative law hearings examiner's report. A transcript of a hearing or a portion of the transcript shall be made available to a board upon request. If a transcript or a portion of the transcript is requested, the board's determination of the penalty or penalties to be assessed under article 6 shall be made at a meeting within 60 days after receipt of a transcript or portion of the transcript.

(2) If a board does not determine the appropriate penalty or penalties to be assessed within the time limits prescribed by subsection (1), the director may determine the appropriate penalty and issue a final order for occupations regulated under articles 8 to 25.

(3) A member of a board who has participated in an investigation on a complaint filed with the department or who has attended an informal conference shall not participate in making a final determination in a proceeding on that complaint.

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

Popular name: Act 299

339.515 Petition for review generally.

Sec. 515. A person seeking a license or certificate of registration or renewal under this act may petition the department and the appropriate board for a review if that person does not receive a license or certificate of registration or renewal.

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

Popular name: Act 299

339.516 Petition for review; contents.

Sec. 516. A petition submitted under section 515 shall be in writing and shall set forth the reasons the petitioner feels the licensure or registration should be issued.

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

Popular name: Act 299

339.517 Consideration of petition; alternative form of testing; personal interview.

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Sec. 517. In considering a petition submitted under section 515 for an occupation regulated under articles 8 to 25, the department and the appropriate board may administer an alternative form of testing to the petitioner, or conduct a personal interview with the petitioner, or both.

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

Popular name: Act 299

339.518 Issuance of license or certificate of registration or renewal based on review of petitioner's qualifications.

Sec. 518. The department may issue a license or certificate of registration or renewal for an occupation regulated under articles 8 to 25, if based on a review of the qualifications of the person who submitted a petition under section 515, the department and the appropriate board determine that the person could perform the occupation with competence.

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

Popular name: Act 299

339.519 Petition to review limitation on license, certification of registration, or renewal; reply; removal of limitation.

Sec. 519. (1) A person who has had a limitation placed on a license, a certificate of registration, or the renewal of a license or certificate of registration under section 203 or 204, within 30 days after the limitation is placed on the license, certificate of registration, or renewal of the license or certificate of registration, may petition the department in writing for a review of the decision to place the limitation.

(2) The department, in reply to a petition submitted under subsection (1), shall set forth the reasons the department determined that the limitation should be placed on the license, certificate of registration, or renewal of a license or certificate of registration. The reply to the person who submits a petition under section 519 shall be sent to the petitioner within 15 days after receipt of the petition.

(3) The department and a board may remove the limitation, if, based on a review of the petitioner's qualifications, the department and the appropriate board determine that the person who submitted a petition under subsection (1) could perform with competence each function of the occupation without the limitation.

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

Popular name: Act 299

339.520 Petition to review decision denying person licensure, approval, or recognition.

Sec. 520. A school, institution, program, or other person which has been denied licensure, approval, or recognition within 30 days after the decision, may petition the department in writing for a review of that decision.

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

Popular name: Act 299

339.521 Consideration of petition; reinvestigation; reply.

Sec. 521. In considering a petition submitted under section 520, the department and an appropriate board may reinvestigate the school, institution, or person and the curriculum of the school, institution, or program offered by the person before replying to the petition. The reply to the petition shall set forth the reasons licensure, approval, or recognition had not been granted. The reply shall be sent to the petitioning school, institution, or person.

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

Popular name: Act 299

339.522 Conducting proceedings on grievance lodged before effective date of act.

Sec. 522. Notwithstanding any other provision of this act, if an oral or written grievance was lodged before the effective date of this act against a person licensed under an act repealed by this act, the proceedings on that grievance shall be conducted in the manner prescribed in the repealed act.

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

Popular name: Act 299

339.551 Additional definitions.

Sec. 551. As used in sections 553 to 559:

(a) "Employee of the department" means an individual employed by the department or a person under contract to the department whose duty it is to enforce the provisions of this act or rules promulgated or orders

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issued under this act.

(b) "Citation" means a form prepared by the department pursuant to section 553.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

Administrative rules: R 339.1001 et seq.; R 339.3101 et seq.; R 339.15101 et seq.; R 339.16001 et seq.; R 339.17101 et seq.; R 339.18001 et seq.; and R 339.19001 et seq. of the Michigan Administrative Code.

339.553 Citation generally.

Sec. 553. (1) An employee of the department may issue a citation to a person licensed or registered under this act or required to be licensed or registered under this act if the employee observes or deduces from an investigation, inspection, or complaint that conduct or conditions exist or have existed which are in violation of this act or rules promulgated or orders issued under this act.

(2) A citation may be sent to a respondent by certified mail, return receipt requested, or may be delivered in person by the issuing employee.

(3) A citation shall contain all of the following:

(a) The date of the citation.

(b) The name and title of the individual issuing the citation.

(c) The name and address of the respondent, indicating that the respondent is being cited for a violation of the act or rules promulgated or orders issued under the act.

(d) A brief description of the conduct or conditions which are considered to be a violation of the act or rules or orders issued under the act and a reference to the section of the act, the rule, or order the respondent is alleged to have violated.

(e) The proposed penalties or actions required for compliance, including the payment of a fine which shall not exceed $100.00 for each violation.

(f) A space for the respondent to sign as a receipt for the citation.

(g) A space where the respondent may accept the citation and agree to comply or may indicate that the violation contained in the citation is contested.

(h) A notice that the respondent must accept or reject the terms of the citation within 30 days.

(i) A brief description of the hearing process and the process for settlement through an informal conference as described in section 508.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

Administrative rules: R 339.1001 et seq.; R 339.3101 et seq.; R 339.15101 et seq.; R 339.16001 et seq.; R 339.17101 et seq.; R 339.18001 et seq.; and R 339.19001 et seq. of the Michigan Administrative Code.

339.555 Citation; notice of acceptance or denial of violation; signature; return; records; citation as final order; disclosure; removal from records; explanation; statement.

Sec. 555. (1) A respondent shall have 30 days in which to notify the department in writing that the person accepts the conditions set forth in the citation or that the person does not admit to the violation cited.

(2) If the respondent accepts the conditions set forth in the citation, the respondent, within 30 days after receiving the citation, shall sign the citation and return it to the department along with any fine or other material required to be submitted by the terms of the citation. The citation and accompanying material shall be placed in the person's records with the department, indicating the nature of the violation and that the person accepted the conditions imposed. A citation issued under this section shall have the same force and effect as a final order issued by a board and may be disclosed to the public. If no further disciplinary actions are placed upon the person's record within 5 calendar years after the citation is issued, the department shall remove the citation and accompanying material from the records. If a respondent so chooses, a 1-page explanation prepared by the respondent shall be placed in the department's files and shall be disclosed each time the issuance of the citation is disclosed.

(3) If the respondent does not admit to the violation cited, the person may so state on the citation and return 1 copy to the department within the 30 days after the receipt of the citation. Upon receiving a copy of the citation not admitting to the violation, the process initiated by section 508 of the act shall be invoked, with the citation serving as the formal complaint.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

339.557 Effect of signing citation.

Sec. 557. The signing of a citation as an indication that the citation was received by the respondent shall be

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considered to be only a receipt of, not an admission to, the violation cited.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

339.559 Review of pending cases; notice.

Sec. 559. Beginning on January 1, 1990, the department may review all pending cases and identify those matters occurring before January 1, 1990 which would have been addressed by a citation, had such a program existed at the time the complaint was filed with the department. The department shall notify each respondent that the person may conclude the department's proceedings by accepting the penalties and proposed compliance actions as set forth in a citation or may continue the proceedings under the provisions of the process initiated in section 508.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

Popular name: Act 299

ARTICLE 6

339.601 Practicing regulated occupation or using designated title; license or registration required; operation of barber college, school of cosmetology, or real estate school; license or approval required; effect of suspended, revoked, or lapsed license or registration; violation as misdemeanor; penalties; person not licensed as residential builder or residential maintenance and alteration contractor; person not licensed as architect, professional engineer, or professional land surveyor; violation; penalties; restitution; injunctive relief; exceptions; "affected person" defined; investigation; forfeiture; remedies; performance of services by interior designer; notice of conviction to department.

Sec. 601. (1) A person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license or registration issued by the department for the occupation.

(2) A school, institution, or person shall not operate or attempt to operate a barber college, school of cosmetology, or real estate school unless the school, institution, or person is licensed or approved by the department.

(3) Subject to section 411, a person whose license or registration is suspended, revoked, or lapsed, as determined by the records of the department, is considered unlicensed or unregistered.

(4) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) is guilty of a misdemeanor, punishable by a fine of not more than $500.00, or imprisonment for not more than 90 days, or both.

(5) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) a second or any subsequent time is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00, or imprisonment for not more than 1 year, or both.

(6) Notwithstanding subsections (4) and (5), a person that is not licensed under article 24 as a residential builder or a residential maintenance and alteration contractor and that violates subsection (1) or (2) is guilty as follows:

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than $5,000.00 or more than $25,000.00, or imprisonment for not more than 1 year, or both.

(b) In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than $5,000.00 or more than $25,000.00, or imprisonment for not more than 2 years, or both.

(c) In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than $5,000.00 or more than $25,000.00, or imprisonment for not more than 4 years, or both.

(7) Notwithstanding subsections (4) and (5), a person that is not licensed under article 20 as an architect, professional engineer, or professional land surveyor and that violates subsection (1) or (2) is guilty as follows:

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than $5,000.00 or more than $25,000.00 or imprisonment for not more than 93 days, or both.

(b) In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than $5,000.00 or more than $25,000.00 or imprisonment for not more than 1 year, or both.

(c) In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than $5,000.00 or more than $25,000.00 or imprisonment for not more than 4 years, or both.

(8) If a trier of fact finds that a person has violated this act, the trier of fact shall require that person to make restitution, based on proofs submitted to and findings made by the trier of fact as provided by law.

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(9) Notwithstanding the existence and pursuit of any other remedy, an affected person may maintain injunctive action to restrain or prevent a person from violating subsection (1) or (2). If successful in obtaining injunctive relief, the affected person is entitled to actual costs and attorney fees.

(10) This act does not apply to a person that is engaging in or practicing any of the following:

(a) Interior design.

(b) Residential building design. As used in this subdivision, "residential building design" means the rendering of residential design services for a detached 1- and 2-family residence building by a person that is exempt from the requirements of section 2012.

(c) Any activity for which the person is licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133.

(d) Any activity for which the person is licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819.

(e) Any activity for which the person is licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739.

(11) As used in subsection (9), "affected person" means a person that is directly affected by the actions of a person suspected of violating subsection (1) or (2) and includes, but is not limited to, a licensee or registrant, a board established under this act, the department, a person that utilizes the services of the person that is engaging in or attempting to engage in an occupation that is regulated under this act or using a title that is designated by this act without being licensed or registered by the department, or a private association that is composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without being registered or licensed by the department.

(12) An investigation may be conducted under article 5 to enforce this section. A person that violates this section is subject to this section and sections 506, 602, and 606.

(13) The department, the attorney general, or a county prosecutor may utilize forfeiture as a remedy in the manner provided for in section 606.

(14) The remedies under this section are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

(15) An interior designer may perform services in connection with the design of interior spaces including preparation of documents relative to finishes, systems furniture, furnishings, fixtures, equipment, and interior partitions that do not affect the building mechanical, structural, electrical, or fire safety systems.

(16) At the time a court enters a conviction under subsection (4), (5), or (6), the court shall notify, by mail, facsimile transmission, or electronic mail, the department of the conviction.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1994, Act 400, Imd. Eff. Dec. 29, 1994;—Am. 1998, Act 250, Eff. Oct. 1, 1998;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 155, Imd. Eff. Dec. 21, 2007;—Am. 2007, Act 157, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 319, Eff. Mar. 31, 2009;—Am. 2016, Act 412, Eff. Apr. 4, 2017.

Compiler's note: 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

339.601a Repealed. 2014, Act 193, Imd. Eff. June 24, 2014.

Compiler's note: The repealed section pertained to creation of the advisory subcommittee on interior design.

Popular name: Act 299

339.602 Violation of act, rule, or order; penalties.

Sec. 602. A person, school, or institution that violates this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

(a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.

(b) Suspension of a license or certificate of registration.

(c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.

(d) Revocation of a license or certificate of registration.

(e) In the case of a person licensed or registered under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than $10,000.00.

(f) Censure.

(g) Probation.

(h) A requirement that restitution be made, based on proofs submitted to and findings made by the hearing

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examiner after a contested case.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 155, Imd. Eff. Dec. 21, 2007;—Am. 2007, Act 157, Imd. Eff. Dec. 21, 2007;—Am. 2012, Act 505, Eff. Apr. 1, 2014.

Popular name: Act 299

339.603 Restitution; suspension of license or certificate of registration.

Sec. 603. If restitution is required to be made under section 602, the license or certificate of registration of the person required to make the restitution may be suspended until the restitution is made.

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

Popular name: Act 299

339.604 Violation of article regulating occupation or commission of prohibited act; penalties.

Sec. 604. A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

(a) Practices fraud or deceit in obtaining a license or registration.

(b) Practices fraud, deceit, or dishonesty in practicing an occupation.

(c) Violates a rule of conduct of an occupation.

(d) Demonstrates a lack of good moral character.

(e) Commits an act of gross negligence in practicing an occupation.

(f) Practices false advertising.

(g) Commits an act which demonstrates incompetence.

(h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

(i) Fails to comply with a subpoena issued under this act.

(j) Fails to respond to a citation as required by section 555.

(k) Violates or fails to comply with a final order issued by a board, including a stipulation, settlement agreement, or a citation.

(*l*) Aids or abets another person in the unlicensed practice of an occupation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1989, Act 261, Eff. Jan. 1, 1990;—Am. 2007, Act 155, Imd. Eff. Dec. 21, 2007.

Popular name: Act 299

339.605 Action in name of state; intervention and prosecution by attorney general; action by department; standing.

Sec. 605. (1) The department may bring any appropriate action, including mediation or other alternative dispute resolution, in the name of the people of this state to carry out this act and to enforce this act.

(2) If the attorney general considers it necessary, the attorney general shall intervene in and prosecute all cases arising under this act.

(3) This section does not prohibit the department from bringing any civil, criminal, or administrative action for the enforcement of section 601.

(4) The department has standing to bring an administrative action or to directly bring an action in a court of competent jurisdiction regarding unlicensed practice of an occupation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2007, Act 155, Imd. Eff. Dec. 21, 2007;—Am. 2007, Act 157, Imd. Eff. Dec. 21, 2007.

Popular name: Act 299

339.606 Forfeiture.

Sec. 606. The department, the attorney general, and a county prosecutor may utilize the forfeiture provisions of chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, for items seized and determined to be proceeds of a crime, substituted proceeds of a crime, or the instrumentality of a crime as those terms are defined under section 4701 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701.

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

Popular name: Act 299

ARTICLE 7

339.701-339.716 Repealed. 1997, Act 10, Imd. Eff. May 16, 1997.

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Compiler's note: The repealed sections pertained to practice of public accountancy; creation of state board of accountancy; and certification, registration, and licensure of certified public accountants.

Popular name: Act 299

339.720 Definitions; practice of public accounting.

Sec. 720. (1) As used in this article:

(a) "Attest" means providing any of the following services, but does not include providing a compilation:

(*i*) An audit or other engagement to be performed in accordance with the statements on auditing standards.

(*ii*) A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

(*iii*) An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(*iv*) An engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(*v*) An examination, review, or agreed-upon procedures engagement to be performed in accordance with the statements on standards for attestation engagements, other than an examination described in subparagraph (*iii*).

(b) "Certified public accountant" means an individual who is either of the following:

(*i*) Qualified by education, examination, and experience to engage or offer to engage in the practice of public accounting as evidenced by the issuance of a certificate as a certified public accountant under section 725 or 726 and a license or registration issued under section 727.

(*ii*) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a.

(c) "Client" means an individual or entity that engages a licensee or licensee's employer to receive any service in the practice of public accounting.

(d) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that are presenting, in the form of financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(e) "Firm" means a corporation, partnership, limited liability company, unincorporated association, sole proprietorship operating under an assumed name, or other legal entity.

(f) "License cycle" means the term of a license issued under this article.

(g) "Nonresident licensee" means an individual licensee whose principal place of business is not located in this state.

(h) Subject to subsection (2), "practice of public accounting" means rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that 1 or more of the following types of information concerning the entity that is the subject of the opinion present fairly the condition of the entity:

(*i*) Financial or other information about which the opinion is given.

(*ii*) Facts respecting the entity's compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation.

(*iii*) The scope of the accounting procedures rendered in connection with the presentation of the entity's financial statement.

(i) "Principal place of business" means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

(j) "Report", when used with reference to an attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of attested information or compiled financial statements and that also includes, or is accompanied by, any statement or implication that the individual or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the individual or firm is an accountant or auditor or from the language of the report itself. Report includes any form of language that disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competence on the part of the individual or firm issuing that language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(k) "Uniform CPA exam" means the Uniform CPA Examination developed and scored by the American Institute of Certified Public Accountants or a successor organization.

(2) In addition to the definition set forth in subsection (1)(h), practice of public accounting includes 1 or

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more of the following activities when performed or offered to be performed by an individual who is holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports in connection with any attest or compilation services.

(b) One or more kinds of management advisory, financial advisory, or consulting services, including, but not limited to, business valuation, forensic accounting, and fraud examination services.

(c) The preparation of tax returns.

(d) The furnishing of advice on tax matters.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010;—Am. 2016, Act 76, Eff. July 4, 2016;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.721 State board of accountancy; creation; qualifications of members; promulgation of rules.

Sec. 721. (1) The state board of accountancy is created.

(2) Subject to subsection (3), the board shall consist of 9 members as follows:

(a) Six members who are certified public accountants who hold a certificate as a certified public accountant, who are licensed under section 727, and who have practiced in this state as certified public accountants for not less than 5 years.

(b) Three members who represent the general public, 1 of whom shall be an attorney who is a member in good standing in the bar of this state.

(3) One of the 9 members of the board shall be a full-time instructor of accounting above the elementary level at an accredited college or university.

(4) The director may promulgate the following rules:

(a) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the practice of public accounting.

(b) Rules governing corporations practicing public accounting, consistent with former 1962 PA 192 or chapter 2A of the business corporation act, 1972 PA 284, MCL 450.1281 to 450.1289, as applicable.

(c) Rules governing educational requirements that qualify an applicant to sit for the uniform CPA exam.

(d) Rules governing educational and experience requirements for the issuance of a certificate as a certified public accountant.

(e) Rules of procedure governing the conduct of matters before the board.

(f) Rules governing the recognition of educational institutions by the board.

(g) Rules governing continuing education required under section 729.

(h) Any other rules considered necessary by the director to implement and enforce this article.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2012, Act 566, Imd. Eff. Jan. 2, 2013;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

Administrative rules: R 338.5101 et seq. of the Michigan Administrative Code.

339.722 Licenses, registrations, and certificates as certified public accountant.

Sec. 722. The department shall issue licenses, registrations, and certificates as a certified public accountant under this article. The department shall issue a license to engage in the practice of public accounting in this state only to an individual who holds a certificate as a certified public accountant and who has furnished evidence satisfactory to the board of compliance with the requirements of this article and the rules promulgated under this article.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.723 Use of title, terms, or abbreviations indicating person is certified public accountant; prohibited conduct; display or uttering of certain instrument or device as prima facie evidence that person caused or procured display; use of certain designations in connection with firm name; violation; fine; investigation and enforcement.

Sec. 723. (1) Each individual having complied with the requirements described in section 720(1)(b) shall be known as a certified public accountant and any other person shall not use that title or the abbreviation "CPA" or any other word, words, letters, or figures to indicate that the person using them is a certified public accountant unless the use is specifically approved by the board. Use of the terms "certified accountant", "chartered accountant", "public accountant", and "registered accountant" and the abbreviations "C.A.", "P.A.",

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and "R.A." is specifically prohibited as being prima facie misleading to the public.

(2) Except as provided in section 724, a person shall not engage in the practice of public accounting either in the person's own name, under an assumed name, or as a member of a firm or as an employee, unless the person holds a Michigan license as a certified public accountant issued under this article or is practicing public accounting in this state pursuant to section 727a.

(3) Unless use of a term is specifically approved by the board, the display or uttering by a person of a card, sign, advertisement, directory listing, or other printed, engraved, or written instrument or device bearing a person's name in conjunction with a title described in subsection (1) shall be prima facie evidence that the person whose name is so displayed caused or procured the display or uttering of the card, sign, advertisement, directory listing, or other printed, engraved, or written instrument or device. Evidence of the commission of a single act prohibited by this section is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

(4) Each licensed firm may use the designation "certified public accountants" in connection with the firm name, except that a licensed firm having only 1 member may use only the designation "certified public accountant". An unlicensed firm shall not use the designation "certified public accountants", "certified accountants", "chartered accountants", "public accountants", or "registered accountants" or the abbreviation "C.P.A.", "CPA", "CPAs", "C.A.", "P.A.", or "R.A." in connection with the firm name unless the firm is licensed under the laws of another licensing jurisdiction and is permitted to practice in this state without obtaining a license as described in section 728.

(5) A person that violates this section or a rule or order promulgated or issued under or related to this section is liable for an administrative fine payable to the department of not more than $25,000.00 per violation.

(6) The department may conduct an investigation and proceed under article 5 to enforce this section.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 161, Imd. Eff. June 11, 2008.

Popular name: Act 299

339.724 Conduct not prohibited by article.

Sec. 724. This article does not prohibit the following:

(a) An individual who is not a certified public accountant from serving as an employee of, or an assistant to, a certified public accountant or firm composed of certified public accountants who are licensed to practice under this article if the individual does not issue an accounting or financial statement over his or her name.

(b) A licensed certified public accountant of another licensing jurisdiction who does not meet the requirements of section 727a, or an accountant who is licensed in a foreign country for the practice of public accounting in that country, from temporarily and periodically engaging in the practice of public accounting in this state if all of the following requirements are met:

(*i*) The individual is conducting a regular practice of public accounting in another licensing jurisdiction or foreign country.

(*ii*) The temporary practice is conducted in conformity with section 736 and applicable rules promulgated by the director, if any.

(*iii*) The individual secures a temporary permit from the department to conduct the practice in this state.

(c) A practicing attorney from preparing reports or presenting records customarily prepared by an attorney in connection with the attorney's professional work.

(d) A person from preparing a financial report or tax return, not requiring the expression of an opinion on the report or return, for filing with a federal, state, or local governmental unit.

(e) An officer, employee, partner, or principal of an organization from signing a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which the officer, employee, partner, or principal of an organization holds in that organization.

(f) An act of a public official or public employee in the performance of that individual's official duties.

(g) An individual who may be employed by more than 1 individual or firm from keeping books, making trial balances or statements, and preparing audits or reports, if the audits or reports are not used or issued by the employer as having been prepared by a certified public accountant.

(h) A firm that does not hold a valid license under section 728 and that does not have an office in this state from providing its professional services in this state in the practice of public accountancy and from using the certified public accountant designation so long as it complies with the requirements of section 728(4) or (5), whichever is applicable.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2018, Act 81, Eff. June 17, 2018.

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339.725 Issuance of certificate as certified public accountant; requirements; examination; qualifying experience.

Sec. 725. (1) The department shall issue a certificate as a certified public accountant to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has complied with the education requirements of subsection (2).

(c) Has passed an examination meeting the requirements of subsection (3).

(d) Has complied with the experience requirements of subsection (4).

(e) Has completed at least 150 semester hours of college education, including a baccalaureate degree or higher degree with a concentration in accounting, at an educational institution approved by the board.

(2) An individual who has completed a curriculum required for a baccalaureate degree with a concentration in accounting at an educational institution approved by the board may sit for the examination required under subsection (3).

(3) An applicant for a certificate as a certified public accountant shall pass an examination in accounting, auditing, and other related subjects, acceptable to the department and the board, that is given reciprocal status in the plurality of states as compared to other examinations.

(4) For an application for a certificate as a certified public accountant received on or after the effective date of the amendatory act that added this subsection, or an application received before that date if a certificate of certified public accountant has not been issued, the applicant shall have 1 year of qualifying experience, all of which is verified by a certified public accountant of this state, any other state, or any jurisdiction of the United States, submitted on a form prescribed by the department. Qualified experience is experience gained through employment in government, industry, academia, or public practice in 1 or more of the following areas:

(a) Audits of financial statements in accordance with the applicable standards at the time of engagement.

(b) Reviews of financial statements in accordance with the applicable standards at the time of engagement.

(c) Compilations of financial statements with complete disclosure in accordance with the applicable standards at the time of engagement.

(d) Attestation engagements in accordance with the applicable standards at the time of engagement.

(e) Other auditing in accordance with applicable standards at the time of engagement that leads to an expression of a written opinion including any of the following:

(*i*) Reviews regarding internal control.

(*ii*) Operational audits.

(*iii*) Compliance audits.

(*iv*) Expressions of an opinion on financial forecasts and projections.

(f) Performance of an independent internal audit function.

(g) Compliance audits of government contracts performed on behalf of a government agency that result in the issuance of an opinion or report.

(h) Audits performed on behalf of a government audit agency that result in the issuance of an opinion or report.

(i) Preparation of income and nonprofit tax returns for any taxing jurisdiction.

(j) Properly documented tax research.

(k) Representation of a client before a government agency on a tax matter.

(*l*) Financial forecasts, analyses, and projections.

(m) Management advisory services including, but not limited to, business valuation, forensic accounting, and fraud examination services that meet applicable standards.

(n) Management and supervision of accounting functions and preparing financial statements for profit or nonprofit entities.

(o) Professional accounting-related work in a public accounting firm.

(p) Other work generally associated with the profession of public accounting.

(5) An applicant for certification under this section shall not receive credit as qualifying experience for the following:

(a) Experience consisting of nonprofessional work, including recruiting, industrial engineering, administration, bookkeeping, and appraisals.

(b) Paraprofessional work that does not comply with subsection (4)(o).

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 1998, Act 380, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 1, Imd. Eff. Mar. 1, 2007;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

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339.726 Holder of certificate issued by another state or foreign jurisdiction; requirements for issuance of certificate by department.

Sec. 726. (1) The department shall issue a certificate as a certified public accountant to an individual who holds a valid and unrevoked certificate as a certified public accountant issued by or under the authority of another state or United States jurisdiction and meets either of the following conditions:

(a) Provides proof that the applicant's original certificate as a certified public accountant was secured on the basis of requirements that the board determines are equivalent to the standards required for qualification in this state at the same time the applicant was issued his or her original certificate.

(b) Has had 4 years of experience of the type described in section 725(4) after having passed the examination upon which the applicant's certificate was based, within 10 years immediately preceding the date of application.

(2) The department shall issue a certificate as a certified public accountant to an individual who holds a valid and unrevoked certificate as a certified public accountant or an equivalent title issued by or under the authority of a jurisdiction outside the United States equivalent to the requirements as described in section 725.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.727 Use of authorized title; requirements.

Sec. 727. After obtaining a certificate as a certified public accountant under section 725 or 726, an individual seeking to use a title authorized by this article shall do 1 of the following:

(a) If the individual only seeks to use a title authorized by this article, the individual shall apply for registration under this article.

(b) If the individual seeks to use a title authorized by this article and to engage in the practice of public accounting, the individual shall apply for licensure under this article. A nonresident member of a firm who has authority for the firm's practice of public accounting in this state is considered to be engaged in the practice of public accountancy in this state.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.727a Individual whose principal place of business is outside of state; practice without need to obtain certificate, license, or temporary practice permit; requirements; practice privileges.

Sec. 727a. (1) An individual whose principal place of business is not in this state is considered to have qualifications substantially equivalent to this state's requirements, has all the privileges of licensees of this state, and may practice public accountancy without the need to obtain a certificate, license, or temporary practice permit under this article, if the individual meets either or both of the following:

(a) Holds a valid license as a certified public accountant from another licensing jurisdiction that requires, as a condition of licensure, that the individual meets all of the following:

(*i*) Has at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university.

(*ii*) Achieves a passing grade on the uniform CPA exam.

(*iii*) Possesses at least 1 year of experience including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which may be obtained through government, industry, academic, or public practice as verified by a licensee.

(b) Holds a valid license as a certified public accountant from another licensing jurisdiction that does not meet the requirements of subdivision (a), but has certified public accountant qualifications that are substantially equivalent to those requirements. Any individual who passed the uniform CPA exam and holds a valid license issued by another licensing jurisdiction before January 1, 2012 is exempt from the education requirement in subdivision (a)(*i*) for purposes of this subdivision.

(2) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means under this section shall be granted practice privileges in this state, and no notice, fee, or other submission is required of that individual. An individual described in this subsection is subject to the requirements of section 734a.

History: Add. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

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339.728 License to engage in practice of public accounting; application by firm; requirements; change in address; practice of public accountancy without license under subsection (1); conditions; other professional services practiced without license.

Sec. 728. (1) A firm that establishes or maintains an office in this state must apply for and obtain a Michigan license under this article in order to engage in the practice of public accounting in this state.

(2) A firm that is applying for licensure under this article shall meet both of the following requirements:

(a) At least a simple majority of the equity and voting rights of the firm are held directly or beneficially by individuals who are licensed in good standing as certified public accountants of this state or another state or the equivalent in another licensing jurisdiction acceptable to the board. Each owner who is not a certified public accountant must be an active individual participant in the firm or 1 or more of its affiliated entities. An individual with practice privileges under section 727a who performs services for which a firm license is required under this section is not required to obtain a certificate under section 726 or a registration or license under section 727.

(b) All attest and compilation services provided by the firm in this state are performed under the supervision of an individual who is licensed and in good standing as a certified public accountant in this state or another state or holds an equivalent authorization to practice public accounting from another licensing jurisdiction acceptable to the board.

(3) A firm shall notify the department of any change in address within 30 days of the change.

(4) A firm that is not required to obtain a Michigan license under subsection (1) may perform a review engagement in accordance with the statements on standards for accounting and review services, perform an examination, a review, or agreed-upon procedures engagement in accordance with the statements on standards for attestation engagements, or perform a compilation for a client in this state, only if it meets each of the following conditions:

(a) It has met the requirements in subsection (2)(a) and (b) and section 729(2).

(b) It performs those services through an individual who has practice privileges under section 727a.

(c) It is authorized or permitted to perform those services in the licensing jurisdiction where the individual described in subdivision (b) has his or her principal place of business.

(5) A firm that is not required to obtain a Michigan license under subsection (1) and that is not seeking to practice under subsection (4) may perform attest services, or any other professional services within the practice of public accountancy, while using the title "CPA" or "CPA firm" in this state without a license issued under subsection (1) only if it meets all of the following conditions:

(a) It performs those services through an individual with practice privileges under section 727a.

(b) It is authorized or permitted to perform those services in the licensing jurisdiction where the individual described in subdivision (a) has his or her principal place of business.

(c) It meets the requirements in subsection (2)(a) and (b) and section 729(2).

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2000, Act 334, Imd. Eff. Dec. 20, 2000;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010;—Am. 2014, Act 177, Imd. Eff. June 17, 2014;—Am. 2016, Act 76, Eff. July 4, 2016;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.729 License renewal; continuing education requirements.

Sec. 729. (1) As a condition of license renewal, an individual licensee must successfully complete at least 40 hours of continuing education for each year of a license cycle. All of the following apply to the continuing education requirement described in this subsection:

(a) A licensee is not required to meet the continuing education requirements for a period of 12 months, beginning on the date of his or her original license.

(b) At least 8 of the 40 hours of continuing education for each year of a license cycle must be in the areas of auditing and accounting. However, the board shall not require completion of more than 8 hours of education in the areas of auditing and accounting in 1 year of a license cycle.

(c) Subject to subdivision (d), at least 2 of the 40 hours of continuing education for each year of a license cycle must be in the area of professional ethics. However, the board shall not require completion of more than 2 hours of education in the area of professional ethics in 1 year of a license cycle.

(d) The content of 1 hour of the 4 hours of continuing education in professional ethics required in a 2-year license cycle must be the statutes and administrative rules of this state applicable to public accountancy. A statewide professional association of certified public accountants approved by the department shall create the content for this 1 hour of professional ethics education.

(e) A licensee who earns more than the required 40 hours of continuing education in a year may carry over

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those excess hours to the next year, but not to any subsequent year, subject to all of the following:

(*i*) The maximum number of excess hours a licensee may carry over into the next year is 40 hours.

(*ii*) A licensee may not carry over more than 8 hours to meet the minimum accounting and auditing education requirements described in subdivision (b) for the next year.

(*iii*) A licensee may not carry over more than 2 hours to meet the minimum professional ethics requirement described in subdivision (c) for the next year.

(*iv*) A licensee may not carry over more than 1 hour of education in public accountancy described in subdivision (d) to meet the minimum ethics requirements for the next license cycle.

(f) Except as provided in subdivision (g), a nonresident licensee must certify in his or her renewal application that he or she has met the continuing education requirements under this subsection.

(g) A nonresident licensee who is applying for renewal of his or her license is considered to have met the continuing education requirements under this subsection if he or she meets the continuing education requirements for renewal of an individual license in the state in which his or her principal place of business is located. If the state in which a nonresident licensee's principal place of business is located does not have continuing education requirements for renewal of a license, the nonresident licensee must comply with all continuing education requirements for renewal of a license under this subsection.

(h) On request, a licensee must provide the department with 1 of the following, as applicable:

(*i*) For a licensee with a principal place of business located in this state, proof acceptable to the department that the licensee meets the continuing education requirements for license renewal in this state.

(*ii*) For a nonresident licensee, proof acceptable to the department, from the state board or other licensing authority in the licensing jurisdiction in which his or her principal place of business is located, that the nonresident licensee meets the continuing education requirements for license renewal in that licensing jurisdiction.

(2) Each licensed firm and sole practitioner that performs any of the following services shall participate in a peer review program established by rule of the department and approved by the board:

(a) Audit.

(b) Review.

(c) Compilations that are relied upon by third parties.

(3) An applicant for renewal shall submit to the department, on a form prescribed by the department and at the time of renewal, proof of peer review obtained within the 3 years immediately preceding the application.

(4) A firm or sole practitioner required to participate in a peer review program under this subsection shall notify the department within 30 days after receipt of a fail rating or second consecutive pass with deficiencies rating. Verbal testimony or documents, or both, pertaining to a peer review shall be considered confidential and shall be exempt from disclosure to the department, except in the case of a fail or second consecutive pass with deficiencies rating.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 1, Imd. Eff. Mar. 1, 2007;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.730 Contingent fee.

Sec. 730. (1) Except as otherwise provided in this section, a certified public accountant may charge or receive a contingent fee.

(2) A licensee shall not charge or receive a contingent fee from a client during the period in which a licensee or a licensee's firm is engaged to perform for the client 1 or more of the following services or during the period of time covered by any of such client's historical financial statements involved in those services:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement when the licensee expects, or may reasonably expect, that a third party will use the financial statement and that the compilation report does not disclose a lack of independence.

(c) An examination of prospective financial information.

(3) A licensee shall not charge or receive a contingent fee for the preparation of an original or amended tax return or claim for a tax refund.

(4) As used in this section, "contingent fee" means a fee established for the performance of a service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained or in an arrangement where the amount of the fee is dependent upon a finding or result of the service. Contingent fee does not include a fee fixed by a court or other public authority and, in tax matters, a fee determined based upon the results of judicial proceedings or the findings of a governmental agency.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

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Popular name: Act 299

339.731 Commission or referral fee.

Sec. 731. (1) Except as otherwise provided in this section, a certified public accountant may perform services for or receive for services a commission as long as the certified public accountant discloses that arrangement to the person to whom the certified public accountant recommends or refers a product or service to which the commission relates.

(2) A licensed certified public accountant shall not receive a commission for recommending or referring to a client a product or service or for causing to be recommended, referred, or supplied to a client a product or service during the period in which a licensee or a licensee's firm is engaged by the client to perform 1 or more of the following services or during the period of time covered by any historical financial statements in those services:

(a) An audit or review of a financial statement.

(b) A compilation of financial statement when the licensee expects, or may reasonably expect, that a third party will use the financial statement and that the compilation report does not disclose a lack of independence.

(c) An examination of prospective financial information.

(3) This section does not prohibit a licensee from paying or receiving a referral fee for recommending or referring a service involving the practice of public accounting if the payment or receipt of the referral fee is disclosed to the client.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.732 Confidentiality; disclosure of information.

Sec. 732. (1) Except by written permission of the client or the heir, successor, or personal representative of the client to whom the information pertains, a licensee, or a person employed by a licensee, shall not disclose or divulge and shall not be required to disclose or divulge information relative to and in connection with an examination or audit of, or report on, books, records, or accounts that the licensee or a person employed by the licensee was employed to make. Except as otherwise provided in this section, the information derived from or as the result of professional service rendered by a certified public accountant is confidential and privileged.

(2) Subsection (1) does not prohibit any of the following:

(a) A certified public accountant, whose professional competence has been challenged in a court of law or before an administrative agency, from disclosing information otherwise confidential and privileged as part of a defense in the court action or administrative hearing.

(b) The disclosure of information required to be disclosed in the course of practice monitoring programs and ethical investigations conducted by a licensed certified public accountant. In such cases, the information disclosed to another licensed certified public accountant in the course of practice monitoring programs and ethical investigations is confidential and privileged to the same degree and in the same manner as provided for in subsection (1).

(c) A licensee, or a person employed by a licensee, from disclosing information otherwise privileged and confidential to appropriate law enforcement or governmental agencies when the licensee, or person employed by the licensee, has knowledge that forms a reasonable basis to believe that a client has committed a violation of federal or state law or a local governmental ordinance.

(3) Documents or records in the possession of the department pertaining to a review, an investigation, or disciplinary actions under this article are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless the records or documents are used for either or both of the following purposes:

(a) As evidence in a contested case held by the department.

(b) As a basis for formal action by the department and until the action is resolved by a final order issued by the board.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005.

Popular name: Act 299

339.733 Statements, records, schedules, working papers, or memoranda; restriction; sale, transfer, bequeathing, or assignment.

Sec. 733. (1) Statements, records, schedules, working papers, or memoranda made by a licensee or by an employee of a licensee shall remain the property of the licensee unless there is an agreement to the contrary. This subsection does not apply to a report submitted by a licensee to a client or a document constituting the

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original books or records of a client's business.

(2) Statements, records, schedules, working papers, or memoranda pertaining to a client shall not be sold, transferred, or bequeathed without consent of the client or the client's personal representative and shall not be assigned except to 1 or more surviving partners or a new partner of the licensee or members of the licensee's firm.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.734 Prohibited conduct; penalties; report to department.

Sec. 734. (1) A holder of a certificate, registration, or license as a certified public accountant or an individual exercising the practice privilege granted under section 727a and the firm employing that individual is subject to the penalties of section 602 for 1 or more of the following:

(a) Fraud or deceit in obtaining a certificate or registration as a certified public accountant, a license to practice public accounting, or a practice privilege under this article.

(b) Dishonesty, fraud, or negligence in the practice of public accounting.

(c) Violation of a rule of professional conduct promulgated under this article.

(d) Departure from standards of professional practice applicable to the engagement, at the time of engagement.

(e) Conviction of a felony under the laws of this or another state or the United States or conviction of a crime, an element of which is dishonesty, fraud, or negligence, under the laws of this or another state or of the United States, including, but not limited to, the failure to file a personal federal, state, or local income tax return.

(f) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant by another state or any jurisdiction of the United States for a cause other than failure to pay a licensure or other required fee in that state.

(g) Suspension or revocation of the right to engage in the practice of public accounting before a state or federal agency or a public accounting oversight board.

(h) Conduct discreditable to the public accounting profession.

(i) Determination of mental incompetency by a court of law.

(j) A violation of this article or a rule promulgated under this article.

(k) A violation of the provisions of section 604.

(*l*) A violation of professional standards regarding the issuance of reports on financial statements; 1 or more kinds of management advisory, financial advisory, or consulting services; the preparation of tax returns; or the furnishing of advice on tax matters.

(2) Notwithstanding section 602(e), a person that violates this article or a rule or order promulgated or issued under or related to this article is liable for an administrative fine payable to the department of not more than $25,000.00 per violation.

(3) Within 30 days after a final determination rendered by a federal or state administrative agency or a judgment or conviction issued by a federal court, a state court, or any other court of record, a licensee or registrant shall report to the department in writing or electronically a determination, order, judgment, or conviction regarding a violation in which dishonesty, fraud, or negligence is an element of that determination, order, judgment, or conviction.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.734a Exercise of privilege granted by MCL 339.727a; conditions; disciplinary action for act committed in another licensing jurisdiction; prima facie evidence of violation.

Sec. 734a. (1) An individual who meets the requirements of, and is exercising the practice privilege granted by, section 727a, and the firm that employs that individual, each agree to all of the following as a condition of the exercise of that privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board and the department.

(b) To comply with this act and the applicable rules.

(c) If the license from the licensing jurisdiction of the individual's principal place of business is no longer valid, that the individual will cease offering or rendering professional services in this state individually and on behalf of a firm.

(d) To the appointment of the state board or other licensing authority that issued his or her license as the

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agent on which process may be served in any action or proceeding by this board against the individual or the firm that employs that individual.

(2) A licensee under this article who offers or renders public accounting services or uses the certified public accountant title in another licensing jurisdiction or before a state or federal agency is subject to disciplinary action under this article for an act committed in another licensing jurisdiction or before a state or federal agency for which the licensee would be subject to discipline for an act committed in another licensing jurisdiction or before a state or federal agency. The department is required to examine any complaint made by a state licensing board or other licensing jurisdictional authority and may accept, as prima facie evidence of a violation of this act, a final order of violation issued by another state licensing board or other licensing jurisdictional authority.

History: Add. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.735 Violation as felony; penalty; enforcement.

Sec. 735. (1) A person who violates section 723(1) through (4) is guilty of a felony punishable by a fine of not more than $25,000.00, or imprisonment for not more than 5 years, or both.

(2) The attorney general or the prosecuting attorney of a county may bring an action in a court of competent jurisdiction to enforce this section and section 601.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005.

Popular name: Act 299

339.736 Issuance of audit report; opinion as to whether financial information is presented according to statutory accounting principles.

Sec. 736. If requested by an insurer, a licensee who agrees to issue an audit report concerning the statutory financial statements of a domestic insurer shall include an opinion as to whether the financial information is presented according to statutory accounting principles as prescribed or permitted by the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or orders issued or rules promulgated under that act. An opinion issued pursuant to this section may be separate from the audit report if the letter of engagement provides that the opinion be available for general distribution.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

ARTICLE 8

339.801-339.814 Repealed. 2004, Act 403, Eff. Feb. 20, 2004.

Compiler's note: The repealed sections pertained to creation of athletic board of control and regulation of boxing matches and contests.

Popular name: Act 299

ARTICLE 9

339.901 Definitions.

Sec. 901. (1) As used in this article:

(a) "Claim" or "debt" means an obligation or alleged obligation for the payment of money or thing of value arising out of an expressed or implied agreement or contract for a purchase made primarily for personal, family, or household purposes.

(b) "Collection agency" means a person that is directly engaged in collecting or attempting to collect a claim owed or due or asserted to be owed or due another, or, subject to subsection (2), repossessing or attempting to repossess a thing of value owed or due or asserted to be owed or due another arising out of an expressed or implied agreement. Collection agency includes an individual who, in the course of collecting, repossessing, or attempting to collect or repossess, represents himself or herself as a collection or repossession agency, or a person that performs collection activities that are regulated under this article on behalf of another. Collection agency also includes a person that furnishes or attempts to furnish a form or a written demand service represented to be a collection or repossession technique, device, or system to be used to collect or repossess claims, if the form contains the name of a person other than the creditor in a manner that indicates that a request or demand for payment is being made by a person other than the creditor even though the form directs the debtor to make payment directly to the creditor rather than to the other person whose name appears on the form. Collection agency also includes a person that uses a fictitious name or the name of another in the collection or repossession of claims to convey to the debtor that a third person is collecting or repossessing or

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has been employed to collect or repossess the claim. Collection agency does not include a person whose collection activities are confined and are directly related to the operation of a business other than that of a collection agency such as, but not limited to, the following:

(*i*) A regular employee who collects amounts for 1 employer if all collection efforts are carried on in the name of the employer.

(*ii*) A state or nationally chartered bank that collects its own claims.

(*iii*) A trust company that collects its own claims.

(*iv*) A state or federally chartered savings and loan association that collects its own claims.

(*v*) A state or federally chartered credit union that collects its own claims.

(*vi*) A licensee under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.

(*vii*) A business that is licensed by this state under a regulatory act that regulates collection activity.

(*viii*) An abstract company that is engaged in an escrow business.

(*ix*) A licensed real estate broker or salesperson if the claims the broker or salesperson are collecting are related to or in connection with the broker's or salesperson's real estate business.

(*x*) A public officer or person that is acting under a court order.

(*xi*) An attorney who is handling a claim or collection on behalf of a client and in the attorney's own name.

(*xii*) A forwarding agency that, acting on behalf of a creditor or lender, forwards a claim, collection, or repossession only to a licensed collection agency that is licensed under this article or to a person whose collection activities are excluded or exempted from licensing under this article.

(c) "Collection agency manager" means the individual responsible for the operation of a collection agency.

(d) "Communicate" means to convey information regarding a debt directly or indirectly to a person through any medium.

(e) "Creditor" or "principal" means a person that offers or extends credit creating a debt or a person to which a debt is owed or due or asserted to be owed or due. Creditor or principal does not include a person that receives an assignment or transfer of a debt solely for the purpose of facilitating collection of the debt for the assignor or transferor. In those instances, the assignor or transferor of the debt shall continue to be considered the creditor or the principal for purposes of this article.

(f) "Consumer" or "debtor" means an individual who is obligated or allegedly obligated to pay a debt.

(g) "Insolvency" means the failure of a licensee to pay debts in the ordinary course of business.

(h) "Office" means a regular place of business where complete records are kept of collections and claims handled by a licensee.

(2) As used in this article, "collecting or attempting to collect a claim", "repossessing or attempting to repossess a thing of value", and "collection activities" do not include any of the following activities of a claim forwarder or remarketer pursuant to a contract with a creditor:

(a) Forwarding repossession assignments on behalf of the creditor to a collection agency that is licensed under this act for repossessing or attempting to repossess a thing of value owed or alleged to be owed on a claim.

(b) Pursuant to the authorization of a creditor and on the creditor's behalf, providing or procuring the services of an auction or other remarketer in connection with the disposition or preparation for disposition of a thing of value that was previously repossessed by a creditor or by another person on behalf of the creditor.

(c) Communicating with a creditor or the collection agency regarding the performance of any of the activities described in subdivision (a) or (b).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 2014, Act 560, Imd. Eff. Jan. 15, 2015;—Am. 2016, Act 167, Eff. Sept. 7, 2016.

Compiler's note: 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

339.902 Collection practices board; creation.

Sec. 902. A collection practices board is created.

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

Popular name: Act 299

339.903 Pretended purchase or assignment of account; applicability of article.

Sec. 903. This article applies to a person who, by a device, subterfuge, or pretense, makes a pretended purchase or takes a pretended assignment of an account from another person to evade this article.

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

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Popular name: Act 299

339.904 Collection agency; license required for each place of business; exceptions to licensing requirement of subsection (1); qualifications of applicant.

Sec. 904. (1) Except as otherwise provided in this article, a person shall not operate a collection agency or commence in the business of a collection agency without first applying for and obtaining a license under this article from the department for each place of business.

(2) A person is not subject to the licensing requirement of subsection (1) if the person's collection activities in this state are limited to interstate communications. This subsection does not exempt a person from other requirements of law that regulate collection practices.

(3) The department may require financial statements, references, or other information it considers necessary to determine the qualifications of the applicant, including but not limited to, the names, addresses, and references of each member of a partnership or of each officer, director, or shareholder holding 10% or more of the outstanding shares of the agency.

(4) Each individual, partner of a partnership, or officer or director of a corporation that is an applicant shall be not less than 18 years of age, be of good moral character, and have the financial responsibility, reputation, and experience such as to command the confidence of the community and to warrant the belief that the business will be operated lawfully, honestly, and fairly.

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. 1994, Act 143, Eff. Mar. 30, 1995.

Popular name: Act 299

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

Compiler's note: The repealed section pertained to licensing of collection agency.

Popular name: Act 299

339.906 Collection agency; license nontransferable; notification of changes in corporate structure, partnership, name, or address.

Sec. 906. A collection agency license is not transferable to another person or location. Notification of changes in the corporate structure, partnership, name, or address shall be submitted in writing within 30 days after the date of the change.

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

339.907 Corporate surety or cash bond; action on bond; aggregate liability; cancellation of bond.

Sec. 907. The department shall require a collection agency to file and maintain in force for each license a corporate surety or a cash bond conditioned upon the faithful accounting of all money collected upon accounts entrusted to the collection agency in a form prescribed by the department in a sum the department considers necessary, but for not less than $5,000.00 nor more than $50,000.00. The bond shall be for the benefit of a person damaged by the wrongful taking of money collected by the agency or failure of the collection agency to report or remit proceeds of collections made. A person injured may bring an action upon the bond. The aggregate liability to all injured persons shall not exceed the sum of the bond. The surety on the bond shall have the right to cancel the bond upon giving 30 days' written notice to the department and after that date shall be relieved of liability for a breach of condition occurring after the effective date of the cancellation. An action on a bond shall not be commenced after the expiration of 1 year from the effective date of cancellation of the bond.

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

Popular name: Act 299

339.908 “Owner manager” defined; personal supervision of collection agency by licensed collection agency manager or owner manager; notice; limitation.

Sec. 908. (1) As used in this section, "owner manager" means a person who does all of the following:

(a) Obtains a license under section 904 as an individual, a partner in a partnership, or an officer of a corporation.

(b) Meets all the requirements specified in section 911(2).

(c) Personally supervises an office of the collection agency for which he or she obtains a license under

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section 904.

(2) A collection agency shall not engage in the collection agency business unless each collection agency office is under the personal supervision of a licensed collection agency manager or an owner manager. An owner manager shall not be required to be licensed as a collection agency manager. An out of state collection agency which initiates collection activity from within this state shall be required to be under the personal supervision of a licensed collection agency manager or owner manager.

(3) A collection agency shall notify the department in writing of the person responsible for the operation of each office. The notification shall be made not more than 30 days after the person assumes the responsibility.

(4) A person shall not personally supervise more than 1 office.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1984, Act 20, Imd. Eff. Mar. 6, 1984.

Popular name: Act 299

339.909 Separate trust account; maintenance by collection agency; designation as trust account; disbursements and withdrawals.

Sec. 909. (1) A collection agency shall maintain a separate trust account in which all money collected under this article by the collection agency shall be deposited within 3 banking days after receipt. The trust account shall be established in 1 of the following institutions:

(a) A state or nationally chartered bank.

(b) A state or federally chartered savings and loan association or savings bank.

(c) A state or federally chartered credit union.

(2) A collection agency that is located in this state shall maintain its trust account in this state. A collection agency that is located in any other state may maintain its trust account in this state or in the state in which the collection agency is located provided that the account is maintained solely for money collected under this article.

(3) The trust account shall be identified and distinguished from the collection agency's personal or general checking or other depository account and shall be designated as a trust account. The trust account shall always contain sufficient funds to pay money due or owing to the client less money owed to the licensee by the client. Except as provided in this section, a disbursement may not be made from the account except to a client for money owed to the client or to pay costs advanced for a client. Periodically, the collection agency may withdraw from the trust account money that has accrued to the collection agency from a collection deposited or from an adjustment resulting from costs advanced and payments made directly to clients.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

Popular name: Act 299

339.910 Books, accounts, and records; use; preservation; accessibility; annual report; financial report of trust account; audit; information provided to director exempt from disclosure; exception; compliance attestation report.

Sec. 910. (1) A collection agency shall keep and use books, accounts, or records that the department requires to determine whether the collection agency is complying with this article and the rules promulgated under this article. These books, accounts, and records shall include at least all of the following:

(a) Permanent records that show the chronological sequence in which money is received and disbursed. For money received, the record shall include the date of receipt and deposit, the number of the account to which it is deposited, the name of the debtor, the name of the principal, and the amount. For disbursements, the record shall include the date, the payee, the check number, and the amount, with a corresponding debtor reference.

(b) For an agency licensee, all of the following:

(*i*) Records or books of accounts that include the account of each client in alphabetical order according to the names of the clients. If the licensee's books of accounting are kept in numerical order, then the licensee shall maintain an alphabetical cross index of each client corresponding with the number of the account. Each account shall reflect the true condition of each debtor's account at the end of each calendar month and shall include all of the following:

(A) The name and address of the client.

(B) The name of the debtor or debtors from whom collection was or is being made.

(C) The amount and description of each debit and each credit and date of each debit and credit.

(D) The balance due to or owing from each client.

(*ii*) A record and history of each claim or account for collection that shall clearly show all of the following:

(A) The name of the debtor.

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(B) The principal amount of the obligation.

(C) Any other or additional amounts or items charged or collected with a description of amounts or items charged or collected.

(D) Each payment received or collected and the date of receipt or collection.

(E) The balance owing.

(c) Each receipt issued, signed by and with the name or initials of the individual who issued the receipt and the name of the issuing agency.

(2) A collection agency shall preserve the books, accounts, and records described in subsection (1) and make them or true copies of them accessible to the department for at least 3 years after making the final payment entry on an account recorded in those books, accounts, and records.

(3) Annually before May 16 a collection agency shall file a report with the department that includes any relevant information required by the department concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the collection agency. The report shall be made under oath and in the form prescribed by the department.

(4) The department may require a collection agency to file a sworn financial report of the trust account the collection agency is required to maintain and may designate the information the collection agency must include in the report.

(5) The department may audit a collection agency's books, accounts, and records when determined necessary by the director.

(6) Information provided to the director under this section is exempted from disclosure except in actions commenced under this article.

(7) A collection agency that is located in this state shall maintain its books and records in this state. A collection agency that is licensed to do business in this state but is located in another state may maintain its books and records either in this state or in the state where it is located. Except as provided in subsection (8), a collection agency that chooses to maintain its books and records in another state shall pay the expenses of a compliance attestation report by the department. The department shall charge expenses in accordance with the standardized travel regulations of the department of technology, management, and budget.

(8) In place of a department audit under subsection (5), the department may permit a collection agency that is located in another state to submit to a compliance attestation report conducted by a certified public accountant who is licensed in the state in which the collection agency is located.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2014, Act 560, Imd. Eff. Jan. 15, 2015.

Popular name: Act 299

339.911 Collection agency manager's license or collection agency license; requirements.

Sec. 911. The department shall issue a collection agency manager's license or a collection agency license to an individual who meets all of the following requirements:

(a) Has a high school diploma or demonstrates to the satisfaction of the department that the applicant possesses the equivalent of a high school education.

(b) Has had at least 6 months of full-time experience in the collection of accounts.

(c) Has passed the examination approved by the department.

(d) Is at least 18 years of age.

(e) Is 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

339.912 Applicant for collection agency manager's license; written examination.

Sec. 912. An applicant for a collection agency manager's license shall take a written examination developed by the department to test the applicant's knowledge of the collection agency business, collection practices, customs and ethics, and the laws and rules relating to the operations of collection agencies.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

Popular name: Act 299

339.913 Collection agency manager's license; display.

Sec. 913. A collection agency manager's license shall be displayed on the premises where licensed business or activity is conducted.

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

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Popular name: Act 299

339.914 Repealed. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

Compiler's note: The repealed section pertained to proof of applicant meeting qualification requirements.

Popular name: Act 299

339.915 Licensee; prohibited acts.

Sec. 915. A licensee shall not commit 1 or more of the following acts:

(a) Communicating with a debtor in a misleading or deceptive manner, such as using the stationery of an attorney or the stationery of a credit bureau unless it is disclosed that it is the collection department of the credit bureau.

(b) Using forms or instruments which simulate the appearance of judicial process.

(c) Using seals or printed forms of a government agency or instrumentality.

(d) Using forms that may otherwise induce the belief that they have judicial or official sanction.

(e) Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt or concealing or not revealing the purpose of a communciation when it is made in connection with collecting a debt.

(f) Misrepresenting in a communication with a debtor any of the following:

(*i*) The legal status of a legal action being taken or threatened.

(*ii*) The legal rights of the creditor or debtor.

(*iii*) That the nonpayment of a debt will result in the debtor's arrest or imprisonment, or the seizure, garnishment, attachment, or sale of the debtor's property.

(*iv*) That accounts have been turned over to innocent purchasers for value.

(g) Communicating with a debtor without accurately disclosing the caller's identity or cause expenses to the debtor for a long distance telephone call, telegram, or other charge.

(h) Communicating with a debtor, except through billing procedure, when the debtor is actively represented by an attorney, the attorney's name and address are known, and the attorney has been contacted in writing by the credit grantor or the credit grantor's representative or agent, unless the attorney representing the debtor fails to answer written communication or fails to discuss the claim on its merits within 30 days after receipt of the written communication.

(i) Communicating information relating to a debtor's indebtedness to an employer or an employer's agent unless the communication is specifically authorized in writing by the debtor subsequent to the forwarding of the claim for collection, the communication is in response to an inquiry initiated by the debtor's employer or the employer's agent, or the communication is for the purpose of acquiring location information about the debtor.

(j) Using or employing, in connection with collection of a claim, a person acting as a peace or law enforcement officer or any other officer authorized to serve legal papers.

(k) Using or threatening to use physical violence in connection with collection of a claim.

(*l*) Publishing, causing to be published, or threatening to publish lists of debtors, except for credit reporting purposes when in response to a specific inquiry from a prospective credit grantor about a debtor.

(m) Using a shame card, shame automobile, or otherwise bring to public notice that the consumer is a debtor, except with respect to a legal proceeding which is instituted.

(n) Using a harassing, oppressive, or abusive method to collect a debt, including causing a telephone to ring or engaging a person in telephone conversation repeatedly, continuously, or at unusual times or places which are known to be inconvenient to the debtor. All communications shall be made from 8 a.m. to 9 p.m. unless the debtor expressly agrees in writing to communications at another time. All telephone communications made from 9 p.m. to 8 a.m. shall be presumed to be made at an inconvenient time in the absence of facts to the contrary.

(o) Using profane or obscene language.

(p) Using a method contrary to a postal law or regulation to collect an account.

(q) Failing to implement a procedure designed to prevent a violation by an employee.

(r) Communicating with a consumer regarding a debt by postcard.

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

Compiler's note: In subdivision (e), “communciation” evidently should read “communication.”

Popular name: Act 299

339.915a Licensee; additional prohibited acts; section construed; "affiliate" defined.

Sec. 915a. (1) A licensee shall not commit any of the following acts:

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(a) Listing the name of an attorney in a written or oral communication, collection letter, or publication in an attempt to collect a debt on behalf of a person other than the licensee or an affiliate of the licensee. This subdivision does not apply if the attorney is an employee of the licensee and is engaged in collecting claims owned by the licensee or an affiliate of the licensee.

(b) Furnishing legal advice, or otherwise engaging in the practice of law, or representing that the person is competent to do so, or to institute a legal action on behalf of another person. This subdivision does not apply to an attorney who is an employee of the licensee and is furnishing legal advice to or representing the interests of the licensee or an affiliate of the licensee. However, an attorney who is an employee of a licensee may not institute a legal action to collect a claim unless the claim is owned by the licensee or an affiliate of the licensee.

(c) Sharing quarters or office space with a lender or with a practicing attorney who is not an employee of the licensee. This subdivision does not prohibit a licensee from occupying a separate space in the same building in which a practicing attorney has office space or sharing a common waiting area with a practicing attorney.

(d) Employing or retaining an attorney to collect a claim, unless the claim is owned by the licensee or an affiliate of the licensee. However, a licensee may exercise authority on behalf of a creditor to retain an attorney if the creditor has specifically authorized the collection agency in writing to do so and the licensee's course of conduct is at all times consistent with a true relationship of attorney and client between the attorney and the creditor. After referral to an attorney, the creditor is the client of the attorney, and the licensee shall not represent the client in court. The licensee may act as an agent of the creditor in dealing with the attorney only if the creditor has specifically authorized the licensee to do so in writing.

(e) Demanding or obtaining a share of the compensation for service performed by an attorney in collecting a claim or demand, or collecting or receiving a fee or other compensation from a consumer for collecting a claim, other than a claim owed to the creditor under the provisions of the original agreement between the creditor and debtor.

(f) Soliciting, purchasing, or receiving an assignment of a claim for the sole purpose of instituting an action on the claim in a court.

(g) Advertising or threatening to advertise for sale a claim as a means of forcing payment of the claim, unless the collection agency is acting as the assignee for the benefit of creditors or acting under an order of a court.

(h) Failing to deposit money collected into the trust account required under this article.

(i) Commingling money collected for a client with the collection agency's own general or operating funds.

(j) Using a part of a client's money in the conduct of a collection agency's business.

(k) Refusing or intentionally failing to remit to a client all money collected, due, and owing the client, less any commission owed to the licensee, within 45 days after the day on which the money is collected.

(*l*) Failing to give a debtor a written receipt for cash payment, or for any other payment if a receipt is specifically requested, showing the amount of money received, the debt to which the licensee is applying the money, and the name of the specific account receiving the money.

(m) Refusing or intentionally failing to return to a creditor all original documents deposited with the claim when the claim is returned, if requested. If the licensee charges a closing out fee to the creditor for returning unpaid claims or discontinuing collection activities, the licensee shall enter into a written agreement with the creditor concerning those fees if requested by the creditor.

(n) Identifying the collection agency other than by the name that appears on the license.

(o) Permitting an employee to use a name other than the employee's own name or the assumed name registered by the licensee with the department in the collection of a debt.

(p) Operating under a name or in a manner that implies or states that the collection agency is a branch of, or associated with, or has been approved or licensed by, a department of federal, state, or local government, or that implies that the collection agency is a credit reporting agency that regularly provides credit reports about consumers unless it is a credit reporting agency.

(q) Accepting a check or other payment instrument postdated by more than 5 days unless the debtor is notified in writing of the person's intent to deposit a postdated check or instrument not more than 10 nor fewer than 3 business days before the deposit.

(r) Depositing or threatening to deposit a postdated check or other postdated payment instrument before the date on the postdated check or instrument.

(2) This section shall not be construed as creating an exception to section 1 of 1917 PA 354, MCL 450.681, or section 916 of the revised judicature act of 1961, 1961 PA 236, MCL 600.916.

(3) As used in this section, "affiliate" means that term as defined in section 776 of the business corporation act, 1972 PA 284, MCL 450.1776.

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History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2017, Act 197, Eff. Mar. 13, 2018.

Popular name: Act 299

339.916 Action for damages or other equitable relief; recovery; civil penalty; attorney's fees and court costs.

Sec. 916. (1) A person who suffers injury, loss, or damage, or from whom money was collected by the use of a method, act, or practice in violation of this article or rules promulgated under this article, may bring an action for damages or other equitable relief.

(2) If the court finds for the petitioner, recovery shall be in the amount of actual damages or $50.00, whichever is greater. If the court finds that the method, act, or practice was a wilful violation, it may award a civil penalty of not less than 3 times the actual damages, or $150.00, whichever is greater and shall award reasonable attorney's fees and court costs incurred in connection with the action.

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

Popular name: Act 299

339.917 Conduct of licensee subject to penalties.

Sec. 917. A licensee that commits 1 or more of the following is subject to the penalties described in article 6:

(a) Cancellation of a surety bond.

(b) Failure to notify the director of any changes in corporate or partnership structure under section 906.

(c) Failure to apply for a separate license for each place of business under section 904.

(d) Commencing operation before issuance of a license under section 904.

(e) Operation before the renewal of an expired license.

(f) Failure to preserve and make accessible books, accounts, and records under section 910(2).

(g) Failure to submit an annual report under section 910(3).

(h) Failure to file a sworn financial report when required by the director under section 910(4).

(i) Failure to allow an audit of books, accounts, and records when determined necessary by the director under section 910(5).

(j) Failure to pay the expenses of an audit conducted by the department under section 910(7), if the licensee is not located in this state.

(k) Violation of any federal or state act relating to debt collection.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2014, Act 560, Imd. Eff. Jan. 15, 2015.

Popular name: Act 299

339.918 Communication with consumer; notice; effect of disputing validity of debt; verification of debt; failure to dispute validity of debt.

Sec. 918. (1) Within 5 days after the initial communication with a consumer in connection with a collection of a debt, a collection agency shall send the consumer, unless the following information is contained in the initial communication or the consumer has paid the debt, a written notice containing all of the following information:

(a) The amount of the debt owed.

(b) The date the communication was sent to the debtor.

(c) The name of the creditor to whom the debt is owed.

(d) A statement specifying that unless the consumer, within 30 days after receipt of this notice, disputes the validity of the debt, or a portion of the debt, the debt will be assumed to be valid.

(e) A statement specifying that, if the consumer notifies the collection agency in writing within 30 days after receipt of this notice, that the debt, or any portion of the debt, is disputed, the collection agency shall obtain verification of the debt or a copy of a judgment against the consumer and that a copy of the verification or judgment shall be mailed to the consumer by the collection agency.

(2) If the consumer notifies the collection agency in writing, within 30 days after receiving the written notice, that the debt, or any portion of the debt, is disputed, collection of the debt or any disputed portion of the debt shall cease until the collection agency obtains verification of the debt and a copy of the verification or judgment is mailed to the consumer by the collection agency. Verification of the debt or any disputed portion of the debt shall include the number and amount of previously made payments and the name and address of the orginal creditor, if different from the current creditor, or a copy of the judgment against the debtor.

(3) The failure of a consumer to dispute the validity of a debt under this section shall not be construed as

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an admission of liability by the consumer.

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

Popular name: Act 299

339.919 Communication with person other than debtor; location information.

Sec. 919. (1) A collection agency communicating with any person other than the debtor, for the purpose of acquiring location information about the debtor, shall state all of the following:

(a) The name of the individual seeking the location information.

(b) Whether the purpose of the communication is for confirmation or correction of location information about the debtor.

(2) For purposes of this article, location information shall consist only of a debtor's place of abode and place of employment and the telephone number at each place.

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

Popular name: Act 299

339.920 Taking possession of assets, books, and records of licensee for purpose of liquidating business or other relief; application for court order; notice.

Sec. 920. If the department determines that a licensee is insolvent or has collected accounts, but failed to remit money due a claimant or forwarded money due a claimant within 45 days after the day of collection, or if the license of a collection agency has expired or been suspended or revoked, the department may apply to the circuit court for the county in which the main office of the agency is located for an order authorizing the director to take possession of the assets, books, and records of the licensee for the purpose of liquidating the business and for such other relief as the nature of the case and the interests of the claimants or aggrieved consumers require. The application for an order following the expiration, suspension, or revocation of a license shall not be made until after 10 days' notice to the licensee or former licensee.

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

Popular name: Act 299

ARTICLE 10

339.1001 Definitions.

Sec. 1001. As used in this article:

(a) "Client" means a person who engages the services of a personnel agency.

(b) "Consulting agent" means the individual designated by a type B personnel agency who is responsible for the general management of that type B personnel agency.

(c) "Employee" means a person performing work or service for compensation.

(d) "Employer" means a person employing or seeking to employ a person for compensation.

(e) "Employment agent" means the individual designated by a type A personnel agency who is responsible for the general management of that type A personnel agency.

(f) "Fee" means any direct or indirect compensation.

(g) "Job order" means an oral or written notification by an employer to a personnel agency that a job opening exists for which the employer wishes to find an employee and includes all information regarding the job.

(h) "Personnel agency" means a type A personnel agency or a type B personnel agency, or both.

(i) "Registration fee" means a fee other than the fee specified in a contract, which a personnel agency requires or accepts from a client prior to execution of a contract.

(j) "Resume writing service" means a person who provides professional assistance to an applicant in compiling a resume by assembling relevant data, organizing it in writing, and providing copies to the applicant for a fee.

(k) "Type A personnel agency" means a person who is engaged in the business or profession of serving, assisting, or in any way aiding a client seeking employment or making basic career decisions, who puts a client in direct contact with employers, and who receives a fee from the client for the services rendered or offered to be rendered.

(*l*) "Type B personnel agency" means a person who is engaged in the business or profession of serving, assisting, or in any way aiding or consulting with a client to make basic career decisions and who receives a fee from the client for the services rendered or offered to be rendered.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department

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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

339.1002 Personnel agency board; creation; qualifications of members.

Sec. 1002. The personnel agency board is created. Six of the members shall have served, for at least 3 years immediately preceding appointment, as an owner or manager in the personnel agency industry in this state.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Compiler's note: For abolishment of the personnel agency board and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-16, compiled at MCL 445.2011.

Popular name: Act 299

339.1003 Personnel agency; license required; determination of Type A or Type B; exemptions.

Sec. 1003. (1) A person shall not open, operate, or maintain a personnel agency in this state without first obtaining the appropriate license from the department. The department shall determine whether an agency is considered a type A personnel agency or a type B personnel agency.

(2) This article does not apply to all of the following:

(a) A regularly established educational institution, religious, labor, charitable, benevolent organization, or department or bureau maintained for the purpose of providing free employment or consulting services for which no fee, compensation, or other valuable consideration is charged or received, directly or indirectly.

(b) A person who maintains an employment or consulting office for the person's own intraorganization purposes exclusively, the Michigan employment security commission, an organization which provides vocational rehabilitation services if the fees are paid by an insurer or self-insurer responsible under applicable state or federal insurance laws for the providing of vocational rehabilitation services to an individual, or a person under a contract with the state of Michigan to provide employment services.

(c) A person employing an individual to render part-time or temporary personal service to, for, or under the direction of a third person if the person employing the individual, in addition to a wage or salary, pays federal social security taxes, state and federal unemployment insurance, carries worker's disability compensation insurance as required by the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, and sustains responsibility for the acts of the employee while rendering service to, for, or under the direction of a third person.

(d) The business of procuring, offering, promising, promoting, or attempting to provide an engagement for an athletic event, a circus, concert, vaudeville, theatrical, or other entertainment, or of giving information as to where an engagement may be procured or provided for an actor, artist, athlete, entertainer, or performer in an athletic event, a circus, vaudeville, theatrical, or other entertainment.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1004 Employment or consulting agent; license required; requirements for issuance; operating independently.

Sec. 1004. (1) An individual shall not operate as an employment agent or consulting agent in this state without first obtaining the appropriate license from the department. A personnel agency and its employment agent and consulting agent shall be jointly and severally responsible for the actions of a person employed by the personnel agency.

(2) The department shall issue an employment agent license or consulting agent license to an individual who complies with all of the following requirements:

(a) Successfully completes a written examination which tests the knowledge of this article, the rules promulgated under this article, the laws against discrimination in employment, and other laws pertinent to serving as an employment agent or consulting agent.

(b) Is of good moral character.

(c) Is at least 18 years of age.

(3) An employment agent or a consulting agent shall not operate independently of a type A personnel agency or a type B personnel agency, as is appropriate.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

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339.1005 Personnel agency license; requirements for issuance; nonresident applicant; obtaining license for each office; designating on-site agent; displaying license.

Sec. 1005. (1) The department shall issue a personnel agency license to a person who complies with all of the following requirements:

(a) Provides a surety or cash bond as set forth in section 1006.

(b) Applies for licensure in a name acceptable to the department. A person may not apply for or obtain both types of personnel agency licenses under the same name or a similar name. The department may disapprove a name similar to that of the Michigan employment security commission, a name likely to be confused with a free placement bureau, an existing licensed personnel agency, or a name the department determines to be likely to mislead the public. A person whose proposed personnel agency name is disapproved may appeal the disapproval to the board in the manner provided for in section 515.

(c) Demonstrates that the premises designated in the application for licensure is an acceptable place for the personnel agency to conduct business. A personnel agency shall not share quarters or office space or have a common waiting room with any other personnel agency, with a resume writing service, or with any other person the department determines is a business related to the business of a personnel agency.

(d) Provides a statement of good moral character for each owner, officer, or partner. This requirement shall be applicable to the owner and to any subsequent owners, if the personnel agency is a sole proprietorship; to each officer and any subsequent officers and to each shareholder owning 10% or more of the stock or subsequent shareholders owning 10% or more of the stock, if the personnel agency is a corporation; and to each partner and to any subsequent partners, if the personnel agency is a partnership.

(e) Designates an employment agent or consulting agent licensed or seeking licensure under section 1004. The personnel agency shall not begin to provide its services until the agent is licensed.

(2) In order to be licensed in this state, a nonresident applicant shall obtain a certificate of authority to do business in this state and file a copy of the certificate and an irrevocable consent appointing the department to receive service of process in any noncriminal proceeding against that person for a violation of this article, a rule promulgated under this article, or an order issued under this article after the consent is filed.

(3) A person shall obtain from the department an appropriate license for each office.

(4) A personnel agency shall designate and maintain at all times an on-site employment agent or consulting agent, as is appropriate, who shall be responsible for the general management of the licensed office and for assuring compliance with this article, rules promulgated under this article, and applicable state and federal laws and regulations.

(5) A personnel agency license issued under this article and the license of the employment agent or consulting agent for each office shall be displayed in a conspicuous place within the office of the licensed agency.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1006 Surety or cash bond; amount; filing; conditions; irresponsibility of surety; new bond; suspension of license; renewal.

Sec. 1006. (1) A personnel agency shall file with the department, on a form provided by the department, a surety or cash bond in the amount of $10,000.00. The bond shall be conditioned on all of the following:

(a) That the licensee or the person applying for the license shall comply with the terms of any contract entered into between the personnel agency and a client.

(b) That money paid by the client shall be refunded to the client, if the refund is required pursuant to this article.

(c) That an action on a bond due to an act which occurred before the expiration or cancellation of the bond may be commenced not later than 1 year after the expiration or cancellation date of the bond.

(d) That the revocation or suspension of a license shall not affect the coverage provided by the bond as to an act that occurred before the date of revocation or suspension.

(e) That the surety shall notify the department if the bond is canceled or terminated by the surety or personnel agency.

(2) If, in the opinion of the department, the surety becomes irresponsible, the personnel agency, upon notice given by the department, shall give a new bond as described in this section. The failure to give a new bond within 30 days after notice from the department shall operate as an automatic suspension of the personnel agency license.

(3) The department shall not renew a license issued under this article if the department has been notified by

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the person issuing the bond that the bond required under this section has been canceled or terminated.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1007, 339.1008 Repealed. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Compiler's note: The repealed sections pertained to investigation of applicant, examination of proposed agency premises, and contents of the employment agency license.

Popular name: Act 299

339.1009 License not transferable; changing to new entity; admitting partner, officer, or stockholder; notice; agent no longer employed by agency; designation of another agent; notice; change of address.

Sec. 1009. (1) A license issued under this article is not transferable.

(2) Within 15 days after a personnel agency changes from a sole proprietorship to a partnership or corporation, or from a partnership to a sole proprietorship or corporation, or from a corporation to a sole proprietorship or partnership, all licensure requirements for the new entity shall be met.

(3) A personnel agency which seeks to admit a new partner to an existing partnership or a new officer or stockholder to an existing corporation shall notify the department within 15 days after a change in the partners of a partnership or the officers of a corporation or the stockholders of a corporation owning 10% or more of the stock of the corporation. The notice shall be made on a form provided by the department and shall contain information by which the department may determine whether the new individual is of good moral character.

(4) If a designated employment agent or consulting agent is no longer employed by the personnel agency or is no longer charged with the general management of the personnel agency's office, the personnel agency shall designate another licensed employment agency or consulting agent and notify the department within 15 days after the appointment is made. A temporary license may be issued to an applicant for an agent's license pursuant to section 213.

(5) An employment agent or consulting agent shall notify the department in writing within 5 business days after the date he or she is no longer employed by a personnel agency or is no longer charged with the general management of the office of that personnel agency.

(6) A personnel agency shall notify the department, in writing, within 30 days after the date of any change of address and shall demonstrate that the premises designated is an acceptable place for the personnel agency to conduct business.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1010, 339.1011 Repealed. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Compiler's note: The repealed sections pertained to opening, conducting, or maintaining an agency at a place specified in the license and designated classes of employment agency licensing.

Popular name: Act 299

339.1012 Type A personnel agency; contract with client for services; limitation on gross fee; refund; receipt; maintenance of files.

Sec. 1012. (1) A type A personnel agency shall enter into a written contract with each client for the services to be rendered for which a charge is to be made by the personnel agency. The contract shall embody all the terms and conditions of the agreement between the personnel agency and the client and shall include, but not be limited to, the following:

(a) The licensed name, address, and telephone number of the personnel agency.

(b) A notice that the personnel agency is licensed, bonded, required to operate under the laws of the state of Michigan, and regulated by the department.

(c) The name and address of the client.

(d) The personnel agency's fee schedule.

(e) The duration of time the client is obligated under the terms of the contract.

(f) The guarantee period of employment after which no refund will be made.

(g) The services to be provided and the manner in which the services are to be provided to the client.

(h) The terms under which the fee is to be paid.

(i) The terms under which a client may receive a refund.

(j) The signatures of the client and the personnel agency employee executing the contract.

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(2) If a client accepts employment as a result of the action of a type A personnel agency, reports for work, and is employed for less than the personnel agency's guarantee period as indicated in the contract, the gross fee charged to the client shall not exceed 20% of the salary or wages earned by the employee. The minimum guarantee period shall be at least 60 calendar days. The terms of the refund shall include a notice that if a fee in excess of the amount required has been collected by the personnel agency, the excess amount shall be refunded to the client within 7 days after the client requests the refund.

(3) A type A personnel agency shall provide 1 copy of the signed contract to the client and shall maintain 1 copy in the agency's file relating to that client.

(4) If a client accepts employment as a result of the services of a type A personnel agency, the agency shall maintain in that client's contract file a record showing the name and address of the client, the name and address of the employer with whom employment is accepted, the nature of the employment, the amount of the agency fee, the dates and amounts of payment, and the date and amount of any refund. The record shall include a space for remarks of an individual nature which supplement the required information.

(5) A type A personnel agency shall give to a client from whom a fee is received for the services rendered or assistance given a receipt bearing the name and address of the personnel agency, the name of the client, the name of the individual receiving the fee, the amount of the fee, the date of payment of the fee, and the reason for payment of the fee. The original receipt shall be given to the client and a copy shall be filed by the agency in the same place as the contract under which payment was made.

(6) A type A personnel agency shall maintain a client file containing the contract, the employment and payment record, and receipts of payment for at least 3 years following the last payment or refund.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1013 Type A personnel agency; directing client to employment.

Sec. 1013. (1) Except as otherwise provided in subsection (5), a type A personnel agency shall not direct a client to employment without having obtained from the proposed employer, either orally or in writing, a bona fide job order. The job order shall be recorded on a form and shall include, but not be limited to, the following information:

(a) The full name and position of the individual placing the order on behalf of the employer.

(b) The name of the individual taking the job order on behalf of the personnel agency.

(c) The date on which the order is placed.

(d) The nature of the employment.

(e) The name and address of the employer to whom a client may be directed and the name and title of the individual to be contacted.

(f) The probable duration of the employment if employment is other than permanent.

(g) The rate of the wage or salary to be paid to an employee.

(2) A type A personnel agency shall not direct a client to employment without giving to the client, in written form, the following:

(a) The name, address, and telephone number of the personnel agency.

(b) The name of the client being directed.

(c) The name of the employment agent directing the client.

(d) The name and address of the employer to whom the client is directed and the individual to be contacted.

(e) The kind of employment available at the place of prospective employment.

(f) The minimum starting salary or wage of the proposed employment.

(3) A type A personnel agency may refer a client to an employer by telephone, but the telephone referral shall be confirmed in writing within 24 hours of the referral by mailing or delivering to the client the job referral form described in subsection (2).

(4) Except as otherwise provided in subsection (5), if a client is referred to an employer and employment of the kind specified does not exist at the place to which the client is directed, and the client does not accept other employment in substitution of the kind of employment contained in the job referral, the agency, within 24 hours after demand, shall refund to the client the sum paid by the client for transportation in going to and returning from the referral.

(5) A type A personnel agency may direct a client to an employer if the employer has previously requested that the employer be advised of clients with certain employment qualifications even though an actual vacancy does not exist in the employer's organization at the time the client is referred. A type A personnel agency may also communicate the qualifications of a client to an employer which the agency reasonably believes may be seeking employees with such qualifications, even though a job order has not been placed with the agency.

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However, the client shall be advised that the referral to such an employer is being made without the knowledge of any vacancy and that there will be no refund of client expenses by the agency if employment is not obtained from such a referral.

(6) A type A personnel agency shall maintain a file for at least 3 years regarding each job order. The file shall contain at least the following information:

(a) A copy of the job order.

(b) A copy of each job referral given to a client regarding that job.

(c) A copy of any advertising based on that job order, including the date of the advertising and the place in which it was advertised.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1014 Type B personnel agency; contract with client for services; waiver; fee receipt; maintenance of files.

Sec. 1014. (1) A type B personnel agency shall enter into a written contract with each client for services to be rendered for which a charge is to be made to the client by the agency. The contract shall embody all terms and conditions of the agreement between the agency and the client and shall include, but not be limited to, the following:

(a) The licensed name, address, and telephone number of the personnel agency and the name and address of the client.

(b) A notice that the contract should not be signed until the client has read, signed, and dated the required applicable waiver.

(c) A notice that the agency is licensed, bonded, required to operate under the laws of the state of Michigan, and regulated by the department.

(d) The agency's fee schedule as it applies to the client.

(e) The terms under which the fee is to be paid.

(f) A complete list of the services offered and a description of those services.

(g) A description of the place and manner in which the services will be provided.

(h) The contract execution date and the duration of the client's obligations under the terms of the contract.

(i) The terms under which a client may receive a refund.

(j) The signatures of the client and the agency employee executing the contract.

(2) If the type B personnel agency does not provide job listing services to its clients, the contract shall be accompanied by the following waiver. The waiver shall be printed in 14-point type on a piece of paper 8-1/2 inches by 11 inches in size. The waiver shall be read, signed, and dated by the client prior to the execution of the contract and made a part of the contract, and shall read: "Notice: We are not an employment agency and are not permitted under the terms of this contract to schedule interviews or to in any way put you in direct contact with potential employers. This waiver must be read, signed, and dated by the client prior to the signing of the contract." A type B personnel agency which provides job listings shall comply with section 1015 and use the waiver set forth in that section.

(3) A type B personnel agency shall provide 1 copy of the signed contract to the client and shall maintain 1 copy in the agency's file relating to that client.

(4) A type B personnel agency shall give each client from whom a fee is received a receipt bearing the name and address of the agency, the name of the client, the amount of the payment, the date the payment was received, the name of the individual receiving the payment, and the reason for the payment. The original of the receipt shall be given to the client and a copy shall be filed by the agency in the same place as the contract under which the payment was made.

(5) A type B personnel agency shall maintain the client file, containing the contract, a record of services rendered and payments received, and receipts of payment, for at least 3 years following the last payment or refund.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1015 Type B personnel agency; additional duties.

Sec. 1015. In addition to the requirements of section 1014, a type B personnel agency which provides job listings to its clients shall do all of the following:

(a) Require that a potential client read, sign, and date the following waiver prior to entering into a contract for services with the agency. The waiver shall be printed in 14-point type on a piece of paper 8-1/2 inches by

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11 inches in size. The waiver shall be made a part of the contract and shall read: "Notice: We are a job information service. We do not schedule interviews with potential employers. Instead, we provide information on employment opportunities. We cannot guarantee you a job. We do guarantee that the jobs listed with us are confirmed at least every 10 calendar days. We have provided you with a sample of actual current job listings. As a client you may obtain a copy of a specific job listing which has been advertised. If you discover that a job which is listed in a job order has not been confirmed within 10 calendar days or that a job listing is not accurate as advertised or not complete as required by law, you may receive a full refund."

(b) Allow a client to inspect a sample of all current job listings advertised within the previous 2 weeks prior to entering into the agency contract or requesting payment of any fee. Identifying features of the employer may be deleted in the sample listing.

(c) Limit the contract with a client to not more than 12 months with no provision for mandatory or automatic renewal of the contract.

(d) Have a job order for each job or place of employment listed, and confirm each job order with the employer before it is listed and not less than once every 10 calendar days thereafter until the job order is canceled. The job order shall contain a written record of the date and the name and title of the person contacted at the employer's place of business to confirm the job order.

(e) Cancel any job listing within 24 hours after receipt of an oral or written notice from an employer canceling the job order or stating that the job has been filled and giving the name and title of the person at the employer's place of business stating that the order is canceled or the job is filled.

(f) Provide a client a copy of any job order or job listing upon request by the client.

(g) Refund fees charged to a client within 24 hours after being requested to make a refund if the job order was not confirmed within 10 calendar days or was inaccurate or incomplete.

(h) Maintain a job listing for each job order which contains all of the following information:

(*i*) The name and either the address or the telephone number of the person whom the client may contact regarding the potential employment.

(*ii*) The name and title of the person confirming on behalf of the employer that a job opening exists for which the employer seeks an employee.

(*iii*) The name and either the address or telephone number of the potential employer and the general location of the employment.

(*iv*) The job title of the potential employment.

(*v*) The minimum starting salary or wage for the job.

(*vi*) The probable duration of the employment if the job is not a permanent position.

(*vii*) The minimum job qualifications and requirements for each job.

(i) Maintain for at least 3 years records of each client contract, including the waiver, the payments made and services rendered under that contract, and any refunds required.

(j) Maintain for at least 3 years records of each job order and job listing, copies of any advertising of that job listing, the list of job order confirmations performed, and the notice of cancellation for that job order.

(k) If the agency advertises job listings, confirm that the job has not been filled or the job order canceled within 24 hours before placing the advertising. If the job listing is being advertised, cancel the advertising within 24 hours after being notified that the job order has been canceled or the job has been filled.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1016-339.1018 Repealed. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Compiler's note: The repealed sections pertained to employment agency client procedures, use of false or fraudulent notice or advertisement, and prohibited acts by the agency.

Popular name: Act 299

339.1019 Personnel agency; prohibited acts.

Sec. 1019. A personnel agency, or any licensed agent or other agent or employee of a personnel agency shall not do any of the following:

(a) Use any name other than the name in which the personnel agency is licensed.

(b) 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 services as a personnel agency without alleging and proving that the agency and its agent were licensed under this article during the performance of the act or contract.

(c) Use a form which contains provisions in violation of this article, rules promulgated under this article, or other state or federal laws or regulations.

(d) Share a fee with any other person, except a personnel agency licensed in this state or in any other state

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requiring licenses for personnel agencies or a personnel agency in a state in which licensure is not required.

(e) Persuade, induce, or solicit an employer to discharge an employee.

(f) Request or accept a registration fee or any other fee not set forth in the agency's contract with a client or charge a fee higher than the fee set forth in the contract.

(g) Request or accept, or give, offer, or promise to give, a gift of such value that the gift is likely to persuade, induce, or influence an action of an employer or benefit the personnel agency or any of its agents or employees.

(h) Knowingly procure, entice, send, or aid in procuring, enticing, or sending a person to perform an illegal act.

(i) Prevent an employee of the department from inspecting the records of the agency at any time during normal business hours.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1020 Type A personnel agency; prohibited acts.

Sec. 1020. A type A personnel agency, its licensed employment agent, or any other agent or employee of the type A personnel agency, shall not do any of the following:

(a) Persuade, induce, or solicit an employee to leave employment which has been secured for that employee by the personnel agency.

(b) Send a client to a place where a strike or lockout exists or is impending without informing the client of the strike or lockout, and so noting that fact upon the job referral slip given to the client.

(c) Require or accept a fee from a client until the client has made a bona fide acceptance of employment.

(d) Enter into or enforce a contract with a client if another personnel agency or business entity is a party to the contract.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1021 Type B personnel agency; prohibited acts.

Sec. 1021. A type B personnel agency shall not do any of the following:

(a) Put a client in direct contact with a specific employer.

(b) Contact a specific employer on behalf of a client.

(c) Advertise the availability of an individual for employment.

(d) Charge or accept a fee from a client at the time a client procures employment.

(e) Provide clients with lists of potential employers, if the type B personnel agency chooses to provide such lists in compliance with section 1015, without providing additional consulting services.

(f) Advertise, including in directories or news media, that it is an employment agency or in such a manner that may lead a client or potential client to believe that the type B personnel agency or any of its agents or employees may, in any way, put a client in direct contact with an employer.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

339.1022 Person considered licensed.

Sec. 1022. A person who holds a license to operate pursuant to this article on the effective date of the 1991 amendatory act that amended this section shall be considered by the department to be appropriately licensed under this article until that license expires.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 253, Imd. Eff. Nov. 19, 1992.

Popular name: Act 299

ARTICLE 11

339.1101 Definitions.

Sec. 1101. As used in this article:

(a) "Barber" means a person who shaves or trims the beard of a person; cuts, trims, shampoos, relaxes, curls, permanently waves, dresses, tints, bleaches, colors, arranges, or styles the hair of a person; massages the face and head of a person; or renders personal services of a similar nature customarily done by a barber.

(b) "Barber college" means an establishment which renders for compensation the services of a barber, but having for its primary purpose the teaching for compensation of the theory and practice of serving as a barber.

(c) "Barbershop" means a place, establishment, or premises or part of a premises where a person performs

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as a barber.

(d) "Demonstration" means a show, seminar, or contest in which barber services are rendered for the purpose of educating barbers.

(e) "Demonstrator" means a person who performs a service of a barber at a demonstration.

(f) "Immediate family" means persons residing together who are related by birth, marriage, or adoption.

(g) "Instructor" means a person who instructs another in the theory and practice of serving as a barber.

(h) "Student" means a person learning the theory and practice of serving as a barber.

(i) "Student instructor" means a person learning the theory and practice of teaching barbering.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Compiler's note: 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

339.1102 Board of barber examiners; creation; qualifications of members.

Sec. 1102. The board of barber examiners is created. Six members of the board shall have practiced as a barber for 3 years before appointment. One of those members shall be a journeyman barber.

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

Popular name: Act 299

339.1103 Repealed. 1982, Act 360, Eff. Mar. 30, 1983.

Compiler's note: The repealed section pertained to certificate of health.

Popular name: Act 299

339.1104 Rendering services of barber without license prohibited; exceptions.

Sec. 1104. (1) A person shall not render the services of a barber, with or without compensation, on any person other than his or her immediate family unless the person is licensed under this article. This section shall not apply to a person holding a demonstration permit issued under section 1117.

(2) A person shall not use the title "barber" in any way, including, but not limited to, in the name of an establishment unless the person is licensed under this article.

(3) Nothing in this article shall be construed to prohibit a person licensed under article 12 from rendering the services for which he or she is licensed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Popular name: Act 299

339.1105 Student license; duration; requirements; supervised barber services without compensation; renewal or extension of license; new license; transfer of license.

Sec. 1105. (1) The department shall issue a student license valid for 2 years to an individual who fulfills all of the following requirements:

(a) Has completed the tenth grade of school or has an equivalent education as determined by the department.

(b) Is of good moral character.

(2) Upon being licensed by the department, a student may render barber services to the public under the supervision of an instructor. A student shall not receive compensation for performing barber services.

(3) A student may renew his or her license for 1 additional year. An extension of a student license beyond that provided for in this subsection requires approval by the board.

(4) Upon approval of the department, an individual who has previously held a student license may be granted a new student license or may transfer a student license to another barber college.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.1106 Student instructor license; requirements; rendering barber services to public prohibited; exceptions; renewal of license.

Sec. 1106. (1) The department shall issue a license as a student instructor to an individual who fulfills all of the following requirements:

(a) Has graduated from high school or provided documentation of an equivalent education acceptable to the department and the board.

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(b) Is of good moral character.

(c) Is a licensed barber with not less than 2 years' experience.

(2) A student instructor shall not render barber services to the public in a barber college except incidentally as a teaching example or to correct or complete the work of a student.

(3) With the approval of the board, a student instructor may renew his or her license for an additional year.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.1107 Repealed. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Compiler's note: The repealed section pertained to qualifications for license to practice as an apprentice.

Popular name: Act 299

339.1108 Barber license; requirements; effect of licensure in another state, jurisdiction, or country; denial or limitation of license; substitution of experience for instruction; barber apprenticeship program.

Sec. 1108. (1) The department shall issue a license to practice as a barber to an individual who fulfills all of the following requirements:

(a) Is not less than 17 years of age.

(b) Is of good moral character.

(c) Demonstrates satisfactory completion of either of the following:

(*i*) Not less than a 1,800-hour course of study at a licensed barber college.

(*ii*) Subject to subsection (4), served as an apprentice for at least 1,800 hours in a barber apprenticeship program.

(d) Passes an examination approved by the board and the department.

(e) Has completed the tenth grade of school or has an equivalent education as determined by the department.

(2) The department shall issue a license as a barber to an individual who has held a license as a barber in another state, jurisdiction, or country for 1 out of the 3 years immediately preceding the date of application if the requirements for licensure in the other state, jurisdiction, or country are substantially equivalent to the requirements of subsection (1), as determined by the department. However, the department may deny or limit a license described in this subsection if the applicant has been disciplined, or disciplinary action is pending, in another state, jurisdiction, or country.

(3) For the purposes of fulfilling the requirement of subsection (1)(c)(*i*), an individual whose instruction as a barber was received in another state, jurisdiction, or country may substitute experience as a barber or barber apprentice for instruction in the ratio of 3 months of experience for 100 hours of instruction. However, if the individual's experience as a barber or barber apprentice was acquired in a country that the department considers a country from which records are not generally available, both of the following apply to the substitution of experience for instruction under this subsection:

(a) The individual may not substitute experience for instruction under this subsection unless he or she provides a signed and notarized attestation detailing his or her experience, including his or her place of employment or apprenticeship, to the department.

(b) The individual may not substitute experience for any of the hours of instruction concerning safety and sanitation, or concerning laws, rules, and regulations, required by the department by rules promulgated under this article.

(4) A barber apprenticeship program does not satisfy the requirements of subsection (1)(c)(*ii*) unless the owner of the barber college or barbershop that conducts the apprenticeship program ensures that the apprenticeship program meets all of the following requirements:

(a) A student or apprentice is not required to be in attendance for more than 40 hours per week.

(b) A system to keep and maintain records as required under subsection (5).

(c) A grading system for students or apprentices is established.

(d) A student or apprentice is required to pass an examination before the owner of the barber college or barbershop certifies to the department that he or she has completed training.

(e) Before the barber college begins training a student, or the barbershop accepts an apprentice, the owner of the barber college or barbershop obtains proof that the student or apprentice has a high school education, or the equivalent of a high school education. This subdivision does not apply to a student who is enrolling in a program offered as a part of the regular curriculum of a public school and approved by the state board of education.

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(f) Before the barber college begins training a student, or the barbershop accepts an apprentice, the owner of the barber college or barbershop submits an application to the department on behalf of the student or apprentice. The owner of the barber college or barbershop shall retain a copy of the proof of education described in subdivision (e), if applicable, and the application described in this subdivision in the records of the barber college or barbershop until the student or apprentice applies for examination to obtain a license.

(5) The owner of a barber college or barbershop that conducts an apprenticeship program shall keep and maintain the following records for each apprentice for at least 3 years:

(a) A daily attendance record.

(b) A record of the types of services and practical applications performed during the apprentice's training.

(c) The date the apprentice began participating in the apprenticeship program.

(d) A copy of the apprentice's contract.

(e) An evaluation and progress records of the apprentice's work.

(f) A proposed completion date of the apprentice's participation in the apprenticeship program.

(6) The owner of a barbershop that conducts an apprenticeship program shall provide a curriculum and instruction that is substantially similar to that required to be provided by a barber college.

(7) The owner of a barbershop that conducts an apprenticeship program shall not charge a fee for the teaching of barber services to apprentices on the premises. The owner of a barbershop where 1 apprentice has been successfully trained may allow the training of additional apprentices at the establishment, except that not more than 2 apprentices may be trained at the same time.

(8) If the location of a barbershop where an apprenticeship program is conducted changes, the owner of the barbershop may continue the apprenticeship program at the new location if a new license is issued under section 1111, and an apprentice who was receiving training at the original location may continue to receive training at the new location.

(9) As used in this section, "apprentice" means an individual who is engaged in learning the theory and practice of serving as a barber and providing barber services.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1982, Act 360, Eff. Mar. 30, 1983;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2014, Act 136, Imd. Eff. May 27, 2014;—Am. 2021, Act 101, Eff. Mar. 30, 2022.

Popular name: Act 299

339.1109 Instructor license; requirements; substitution of experience for required training; waiver.

Sec. 1109. (1) The department shall issue a license as an instructor to an individual who fulfills all of the following requirements:

(a) Is a licensed barber with not less than 2 years of experience.

(b) Except as provided in subsection (2), has completed 1 year of instruction in the teaching of barbering at a licensed barber college or has successfully completed 60 semester hours or 90 term hours in a course of instruction approved by the board at an accredited college or university and has 6 months of instruction in the teaching of barbering at a barber college.

(c) Has graduated from high school or has an equivalent education as approved by the department.

(d) Has passed an examination approved by the board and the department to determine the individual's fitness to practice as an instructor.

(e) Is of good moral character.

(2) For the purposes of fulfilling the requirements of subsection (1)(b), an individual who has been duly authorized under the laws of another state, jurisdiction, or country to instruct others in barbering may substitute 1 year of experience in barber instruction for the required training. The requirements of subsection (1)(a) and (d) shall not be waived on the basis of prior experience as an instructor.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.1110 Barber college; licensing requirements; instruction by student instructor; notice; transfer of ownership or change of location; automatic revocation; required classroom courses; rules; substitution of hours of instruction for licensed cosmetologist; display of license.

Sec. 1110. (1) The department shall license a barber college that meets all of the following requirements:

(a) Through its owners or managers, has applied to the department for a license.

(b) Subject to subsection (6), provides an educational program that requires completion of 225 hours of

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classroom study, demonstrations, and recitations and 1,575 hours of practical barber training.

(c) Meets the sanitation standards required of barbershops as set forth in rules promulgated by the board and determined by inspection by the department.

(d) Files and maintains a corporate surety or cash bond of $10,000.00 conditioned on the faithful performance and satisfaction of the contractual rights of students enrolled in the barber college.

(e) Employs or contracts with not fewer than 2 full-time, licensed instructors and ensures that both of the following are met:

(*i*) At any time classroom study or theory training is given to any number of students, at least 1 instructor is present.

(*ii*) If practical training occurs, there is at least 1 instructor present for every 30 students at all times.

(f) Except as provided in subsection (7), is completely partitioned from any other place of business or dwelling. Except as provided in subsection (7), a person shall not conduct any other business from a barber college than the rendering of barber services and the teaching of barbering, although a barber college may sell at retail to patrons those preparations used on patrons who are receiving barbering services from students.

(g) Provides reasonable classroom facilities and other equipment for the proper instruction of students described in this subdivision and rules promulgated by the board, including 1 stationary wash basin with hot and cold running water and a connected drain for every 2 barber chairs. A barber college shall arrange its enrollment and course scheduling so that students are not required to share the use of a training station during any practical training period.

(2) Except as provided in this subsection, a student instructor may not instruct without a supervising instructor present in the room. In case of emergency, a student instructor may instruct up to 30 students, but the barber college shall provide notice of the emergency to the department in writing and ensure that an instructor is on the premises at all times. Use of a student instructor as a substitute instructor under this subsection shall not continue for more than 7 consecutive days without written approval of the department certifying the emergency circumstances.

(3) The license of a barber college is automatically revoked if there is a transfer of ownership or change of location of a barber college. The department shall not grant a new license to new owners or for a new location unless the requirements of subsection (1) are met.

(4) The classroom courses of a barber college shall include at least all of the following: scientific fundamentals for barbering; hygiene; bacteriology; histology of hair, skin, and nails; structure of the head, face, and neck, including muscles and nerves; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands, and nails; massaging and manipulating the head, face, and neck; haircutting and shaving; cosmetic therapy; arranging, styling, dressing, coloring, bleaching, curling, permanent waving, and tinting of the hair; elements of business training; and barber laws and rules of the state.

(5) The department by rule shall prescribe the number of hours of instruction a barber college is required to provide for each subject set forth in subsection (4). Each barber college shall provide a written copy of the rules to each student at the beginning of his or her instruction.

(6) For the purposes of subsection (1)(b) and section 1108(1)(c), if a student of a barber college is licensed as a cosmetologist under article 12, the barber college may allow the student to substitute hours of instruction completed at a state school of cosmetology for hours of instruction that are substantially similar in content to hours of instruction at the barber college. However, a barber college shall not allow a student to substitute more than 1,000 hours of substantially similar instruction from a state school of cosmetology for hours of instruction at the barber college under this subsection. The department by rule shall establish criteria for determining whether an hour of instruction at a state school of cosmetology is substantially similar to an hour of instruction at a barber college. As used in this subsection and subsection (7), "state school of cosmetology" means a school of cosmetology that is licensed under article 12.

(7) A barber college and a state school of cosmetology may occupy the same building and share facilities.

(8) A barber college shall display the license of the barber college and all instructors, student instructors, and students in a prominent place visible to the public at all times. An individual's license may be displayed at the individual's work station.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2014, Act 137, Imd. Eff. May 27, 2014;—Am. 2020, Act 27, Eff. May 4, 2020.

Popular name: Act 299

339.1111 Barbershop; licensing requirements; partitioning from dwelling; lodging or residential purposes prohibited; transfer of ownership or location as revocation of license; granting of new license; display of licenses.

Sec. 1111. (1) The department shall issue a license to a barbershop which fulfills all of the following

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requirements:

(a) Has made, through its owner, application to the department. The application shall include a description of the premises for which licensure is sought.

(b) Has satisfactorily passed an inspection to determine that the barbershop has met sanitation and establishment standards prescribed in rules promulgated under this article.

(2) A barbershop shall be completely partitioned from a dwelling and shall not be occupied for lodging or residential purposes.

(3) The transfer of ownership or location of a barbershop shall automatically revoke its license. A new license shall not be granted to a new owner or at a new location unless the requirements of subsection (1) have been fulfilled.

(4) The licenses of the barbershop and all barbers working in the barbershop shall be displayed in a prominent place visible to the public at all times. The license of an individual barber may be posted at the barber's work station.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.1112 Rules.

Sec. 1112. The board shall promulgate rules setting forth standards for sanitation in barbershops and barber colleges.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Popular name: Act 299

339.1113 Inspections; right to enter premises.

Sec. 1113. Following the initial inspection required to open a barbershop or barber college, each barbershop shall be inspected at least once a year, and each barber college shall be inspected twice a year. A board member or representative of the department shall be allowed to enter the premises during regular business hours for the purpose of inspecting to determine that the barbershop or barber college meets the requirements of this article and rules promulgated under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Popular name: Act 299

339.1114 Renewal of license; form; effect of failure to renew.

Sec. 1114. A student instructor, barber, instructor, barbershop or barber college license shall be renewed by completing a form provided by the department on or before the date prescribed in rules promulgated by the department. A barber or instructor who fails to renew a license for 3 or more years shall be required by the board to complete the licensing examination.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.1115, 339.1116 Repealed. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Compiler's note: The repealed section pertained to the inspection and operation of a barbershop or barber college and to barbershop sanitary conditions.

Popular name: Act 299

339.1117 Rendering of barber services off premises; requirements; demonstration permit.

Sec. 1117. (1) Except as otherwise provided in this section, barber services shall only be rendered in premises licensed by the department under this article. A barber may render services outside of a barbershop to a patient in a hospital, nursing home, home for the aged, or similar facility or to a person in the person's home if it is impractical or unsafe for the patient or person to travel due to frailty, age, injury, or illness.

(2) The department may issue a demonstration permit, valid for not longer than 1 year, to allow demonstrations on premises not in use as a barbershop. The holder of a demonstration permit shall maintain health, safety, and sanitation standards as set forth in rules authorized under this article. The department may issue a demonstrator permit, valid for no longer than 1 week, to a person not licensed in this state to perform barbering services solely for the purposes of demonstration, provided that the demonstrator is duly authorized to perform barbering services under the laws of another state, jurisdiction, or country.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1984, Act 25, Imd. Eff. Mar. 12, 1984;—Am. 2003, Act 207, Imd. Eff. Nov.

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26, 2003.

Popular name: Act 299

339.1118 Prohibited conduct; strictures.

Sec. 1118. In addition to other penalties prescribed by law, a licensee who commits 1 or more of the following shall be subject to the strictures set forth in article 6:

(a) As a student, receiving compensation for performing the services of a barber.

(b) Continuing to practice while knowingly having an infectious or communicable disease.

(c) Operating in an unsanitary manner; failure to abide by sanitation standards set forth in rules authorized under this article.

(d) Wilfully violating the health and safety rules of any political subdivision.

(e) Aiding an applicant for licensure by misrepresenting a material fact.

(f) Failing to notify the department within 30 days of a change of name or address.

(g) Allowing a license to be used by an unlicensed person.

(h) Hiring or permitting an unlicensed person or student to work in a barbershop as a barber or permitting an unlicensed person to attend barber college as a student.

(i) Operating as a barber from premises not licensed under this article, except as otherwise provided in this article.

(j) Refusal to allow a board member or representative of the department to inspect during regular business hours premises where barbering services are rendered.

(k) Negligent, incompetent, or careless practice causing damage to a person's hair, skin, scalp, nails, or organs.

History: Add. 1984, Act 25, Imd. Eff. Mar. 12, 1984.

Popular name: Act 299

ARTICLE 12

339.1201 Definitions.

Sec. 1201. As used in this article:

(a) "Apprentice" means an individual who is engaged in learning cosmetology in a cosmetology establishment.

(b) "Braiding" means providing or offering to the general public for compensation any of the following services solely for development or improvement of physical qualities of the natural hair structure:

(*i*) Intertwining in a systematic motion to create patterns in a 3-dimensional form.

(*ii*) Inversion or outversion flat against the scalp along the part of a straight or curved row.

(*iii*) Twisting in a systematic motion.

(*iv*) Extension with natural or synthetic fibers.

(c) "Cosmetologist" means an individual who performs or offers to perform 1 or more cosmetology services.

(d) "Cosmetology" means performing 1 or more cosmetology services.

(e) "Cosmetology establishment" means a place of business at which 1 or more cosmetology services are offered or provided. Cosmetology establishment includes a mobile salon and a cosmetology suite. Cosmetology establishment does not include a school of cosmetology.

(f) "Cosmetology services" means any of the following:

(*i*) Hair care services.

(*ii*) Skin care services.

(*iii*) Manicuring services.

(*iv*) Electrology.

(g) "Cosmetology suite" means a room or suite located inside a licensed cosmetology establishment that is leased or rented from the owner of the cosmetology establishment for the purposes of offering or providing 1 or more cosmetology services.

(h) "Electrologist" means an individual who performs or offers to perform electrology.

(i) "Electrology" means the permanent removal of hair from the body of an individual by the use of electricity.

(j) "Esthetician" means an individual who performs or offers to perform skin care services.

(k) "Hair care services" means arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, tinting, trimming, styling, relaxing, perming, straightening, or similar work upon the hair of the head or a wig that an individual is wearing.

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(*l*) "Instructor" means an individual who teaches or offers to teach 1 or more cosmetology services in a school of cosmetology.

(m) "Manicuring services" means the cleansing, filing, shaping, buffing, polishing, or beautifying of the nails of the hands or feet, and the cleansing, massaging, stimulating, exercising, or beautifying of the skin of the hands, arms, and feet, manually or with the use of tools, appliances, or cosmetic preparations, including the repair of nails, or the creation or decoration of artificial nails. Manicuring services do not include the practice of podiatric medicine and podiatric surgery as defined in section 18001 of the public health code, 1978 PA 368, MCL 333.18001.

(n) "Manicurist" means an individual who performs or offers to perform manicuring services.

(o) "Mobile salon" means either of the following:

(*i*) A self-contained vehicle or other device that is moved, towed, or transported from 1 location to another and in which equipment used to perform 1 or more cosmetology services is installed.

(*ii*) A business in which equipment used to perform 1 or more cosmetology services is transported to and used on a temporary basis at a location other than the premises of the owner, including, but not limited to, any of the following:

(A) A cosmetology establishment owned by another person.

(B) A client's home.

(p) "Natural hair cultivation" means techniques that result in tension on hair strands such as twisting, wrapping, weaving, extending, locking, or braiding of the hair by hand, if that work does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair.

(q) "Natural hair culturist" means an individual who is engaged in natural hair cultivation but does not include an individual who is engaged in natural hair cultivation if that activity is performed as part of the practice of a recognized religion.

(r) "Owner" means a person who owns and conducts a cosmetology establishment or a school of cosmetology.

(s) For a mobile salon, "premises" means 1 of the following, as applicable:

(*i*) For a mobile salon described in subdivision (o)(*i*), the vehicle or other device and the equipment installed in the vehicle or device.

(*ii*) For a mobile salon described in subdivision (o)(*ii*), the equipment used to perform the cosmetology services, and the temporary location at which the equipment is used, while the equipment is at that location.

(t) "School of cosmetology" means a school that teaches 1 or more cosmetology services at a premises designated in the license application.

(u) "Skin care services" includes the following services or combination of services:

(*i*) Beautifying the skin of the body of an individual by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.

(*ii*) Cleansing or stimulating the skin of the body by the use of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(*iii*) The temporary removal of hair from the body of an individual by the use of depilatories, waxes, razors, scissors, clippers, or tweezers.

(*iv*) Giving facials, applying removable makeup, applying eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual but does not include applying permanent makeup or the use of tanning equipment.

(v) "Student" means an individual who is engaged in learning cosmetology or 1 or more cosmetology services in a school of cosmetology.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2020, Act 20, Eff. Apr. 26, 2020
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Compiler's note: 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

339.1202 Board of cosmetology; creation; qualifications of members.

Sec. 1202. A board of cosmetology is created. Five of the members of the board shall be licensed cosmetologists who have been actively engaged in the practice of cosmetology for at least 3 years immediately preceding their appointment. One member shall be a person who has been actively engaged in teaching cosmetology in this state for not less than 3 years immediately before appointment and who owns an interest in a school of cosmetology. Three members shall represent the general public.

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

Popular name: Act 299

339.1203 Promulgation of rules; sanitation standards; operation of mobile salons.

Sec. 1203. (1) The department in consultation with the board shall promulgate rules that establish sanitation standards that the department considers necessary, with particular reference to the precautions necessary to be employed to prevent the spreading of an infectious or contagious disease, and shall arrange for any inspections that the department considers necessary to safeguard the public health.

(2) The department in consultation with the board shall promulgate rules for the operation of mobile salons and the performance of cosmetology services in or at the premises of mobile salons. The department shall promulgate the rules described in this subsection within 1 year after the effective date of the amendatory act that added this subsection. The rules shall include sanitation standards that meet the requirements of subsection (1) and may establish 1 or more of the following for providing cosmetology services in a mobile salon:

(a) Safety requirements.

(b) Permanent address requirements at which 1 or more of the following are located:

(*i*) Records of appointments.

(*ii*) License numbers of employees.

(*iii*) If applicable, the vehicle identification number of the license holder's self-contained facility.

(c) Enforcement actions to ensure compliance with the requirements under this article and all local laws and ordinances.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2020, Act 20, Eff. Apr. 26, 2020.

Popular name: Act 299

Administrative rules: R 338.2101 et seq. of the Michigan Administrative Code.

339.1203a Cosmetology services; license required; exception; scope of license; limitations; shampoo services by cosmetology student; requirements; records; verification letter.

Sec. 1203a. (1) Subject to subsection (5), an individual shall not perform any form of cosmetology services, with or without compensation, on any individual other than a member of his or her immediate family without a license under this article. However, this article does not apply to an individual, person, or premises that is licensed under article 11 while performing the services of a barber.

(2) An individual who is licensed as a cosmetologist under this article may perform hair care services, skin care services, natural hair cultivation, and manicuring services as part of the practice of cosmetology, but shall not perform electrology unless he or she is licensed as an electrologist.

(3) The department may license an individual to perform manicuring services, natural hair cultivation, or skin care services in accordance with his or her training. An individual who is licensed as a manicurist, natural hair culturist, or esthetician shall only perform that particular service and shall not perform any other cosmetology service unless he or she is licensed for that service. An individual who is licensed as a manicurist, natural hair culturist, or esthetician shall not perform electrology unless he or she is licensed as an electrologist.

(4) An individual who is licensed as an electrologist shall only perform electrology services and shall not perform any other cosmetology service unless he or she is separately licensed to perform those services.

(5) An individual who is a cosmetology student may perform shampoo services in a cosmetology establishment on members of the public without a license under this article if all of the following are met at the time the individual performs the shampooing services:

(a) Except as provided in subsection (6), he or she is enrolled in a school of cosmetology.

(b) He or she has completed at least the 350 hours of instruction in the school's general cosmetology curriculum that is required under section 1205(5)(c). The instruction must include at least the minimum number of practical applications established by the director by rule.

(c) The cosmetology establishment that is employing the individual to perform shampoo services has received written verification from the school of cosmetology the individual attends, in the form of a letter on the school's letterhead, dated and signed by the director or manager of that school, that states all of the following:

(*i*) The individual's full name.

(*ii*) That the individual is currently enrolled in the school.

(*iii*) That the individual meets the requirements described in subdivision (b).

(*iv*) His or her expected graduation date.

(6) An individual who is performing shampooing services under subsection (5) without a license under this

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article may continue to perform those services at the cosmetology establishment without a license for a period of 30 days after the date the individual is scheduled to graduate from the school of cosmetology.

(7) A cosmetology establishment that employs a cosmetology student to perform shampoo services under subsection (5) must do all of the following:

(a) Maintain records of the student's employment and keep the records on file for at least 3 years after the end of the employment relationship. The records must include the verification letter described in subsection (5)(c).

(b) Allow the department access to the records described in subdivision (a).

(c) Ensure that the student does not perform cosmetology services other than shampoo services while employed by the establishment.

(d) Ensure that a licensed cosmetologist is present in the establishment when the student is performing shampoo services.

(8) A school of cosmetology that provides a verification letter described in subsection (5)(c) to a cosmetology establishment must retain a copy of the letter in the student's school record for at least 3 years after the student's expected graduation date.

(9) As used in this section, "shampoo services" means preparing a customer for a shampoo, or shampooing or blow-drying a customer, for a licensed cosmetologist.

History: Add. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2018, Act 387, Eff. Mar. 19, 2019.

Popular name: Act 299

339.1203b Cosmetology establishment or school of cosmetology; school or establishment license required.

Sec. 1203b. A person shall not operate a cosmetology establishment or school of cosmetology without a cosmetology establishment or school of cosmetology license issued under this article.

History: Add. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2020, Act 20, Eff. Apr. 26, 2020.

Popular name: Act 299

339.1204 Cosmetology establishment; issuance of license; separation from dwelling or school of cosmetology; limited license; displaying or posting license; effect of transferring ownership or location.

Sec. 1204. (1) The department shall issue a license to a person to operate a cosmetology establishment, at the premises specified in the license application, if all of the following requirements are met:

(a) An application is submitted to the department by the owners or managers of the establishment.

(b) The application includes the address of the premises of the establishment and a drawing or diagram that shows the location of required equipment and facilities, and if the establishment is adjacent to a dwelling or school of cosmetology, that the premises of the establishment are completely separated by full partitions and doors from the dwelling or school.

(c) The establishment and its premises have satisfactorily passed an inspection conducted by the department for the purpose of determining whether the establishment and premises meet the sanitation and equipment standards prescribed in rules promulgated by the director and any other applicable requirements of this article.

(2) The owner of a cosmetology establishment shall do all of the following:

(a) Ensure that the establishment is completely separated by full partitions and doors from a dwelling or the premises of a school of cosmetology.

(b) Display its license for the establishment and the license of each cosmetologist who works in the establishment in a prominent place in the establishment that is visible to the public at all times. The owner may post the license of a cosmetologist who works in the establishment at his or her work station.

(3) The department may issue a limited cosmetology establishment license to a person that seeks to provide only 1 or more cosmetology services on the premises of the establishment. A licensed cosmetologist who is working in the premises of a limited licensed cosmetology establishment shall not perform cosmetology services that the owner is not licensed to provide in the establishment.

(4) An owner's cosmetology establishment license is considered void if there is a sale or other transfer of the cosmetology establishment, a sale or other transfer of ownership, or, except for a mobile salon, a change in the location of the cosmetology establishment. A person whose license is void under this subsection must submit a new license application and obtain a new license to continue to provide cosmetology services.

(5) This section does not apply to a cosmetology establishment that is a mobile salon until the effective date of the rules promulgated under section 1203 for the operation of mobile salons.

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History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1982, Act 377, Eff. Mar. 30, 1983;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2003, Act 57, Imd. Eff. July 14, 2003;—Am. 2020, Act 20, Eff. Apr. 26, 2020.

Popular name: Act 299

339.1205 Operation of school of cosmetology; issuance of license; requirements; license limited to teaching electrology; effect of transferring ownership or location; substitution of hours of instruction for licensed barber.

Sec. 1205. (1) The department shall issue a license to a person to operate a school of cosmetology, at the premises specified in the license application, if all of the following requirements are met:

(a) An application is submitted to the department by the owner or manager of the school.

(b) The application includes the address of the premises of the school and, except as provided in subsection (7), a drawing or diagram of the premises that shows that the premises are fully partitioned from any other activity, business, or dwelling. The drawing or diagram must also indicate the location of required equipment and facilities.

(c) The applicant has filed a cash or surety bond of $10,000.00 with the department, in favor of the people of this state for the use and benefit of students, and conditioned on the faithful performance and satisfaction of the contractual rights of students.

(d) Provisions have been made for the daily supervision of the school by a licensed cosmetology instructor who has at least 3 years' experience in all services of cosmetology that are taught in the school.

(e) The school and its premises have successfully passed an inspection by the department conducted for the purpose of determining whether the school and premises meet the standards set forth in this article and rules promulgated by the director.

(2) A school of cosmetology shall meet all of the following requirements:

(a) Subject to subsection (6), maintain a course of practical training and technical instruction, as outlined in the various curricula set forth in rules promulgated by the director, equal to the requirements for prelicensure training under this article. A school of cosmetology shall teach hair care services, skin care services, and manicuring services and may hold a limited license for the teaching of electrology. If the owner of a school of cosmetology holds a license that limits the school to only the teaching of electrology, the school shall teach only electrology and not any other cosmetology service.

(b) Possess efficient apparatus and equipment prescribed in rules promulgated by the director that are sufficient for the ready and full teaching of each subject in the curriculum.

(c) Employ or engage at least 1 licensed instructor, who is competent to provide instruction in each subject of its curriculum, for every 20 students.

(d) Operate for teaching purposes only.

(e) Allow instructors to practice on the public only to demonstrate techniques to students and to correct the work of students.

(f) If a specialist demonstrator gives a classroom demonstration, ensure that a licensed instructor supervises the demonstration.

(g) The premises of the school are completely separated by full partitions and doors from any other activity, business, or dwelling.

(h) Display its license for the school of cosmetology and the license of each instructor who works in the school in a prominent place in the school that is visible to the public at all times.

(i) Display a sign in the school that states that services are performed by students of the school.

(j) At the time he or she enrolls in the school, provide to each student a financial contract that states the total cost and all charges involved in the complete course of study.

(k) In any advertising materials distributed or published by the school that refer to the cost of tuition or related subjects, include the same financial information described in subdivision (j).

(3) The owner of a school of cosmetology shall ensure that the school meets the requirements of subsection (2).

(4) The department may issue a limited school of cosmetology license to the owner of a school that teaches only electrology. A school of cosmetology that is authorized to teach only electrology shall meet all of the requirements of this section, except that only an instructor who is authorized to perform electrology may provide the daily supervision of the school that is required under subsection (1)(d), and the curriculum offered and equipment and facilities required shall be only those required for the teaching of electrology.

(5) An owner's school of cosmetology license is considered void if there is a sale or other transfer of the school, a sale or other transfer of ownership, or a change in the location of the school. A person whose license is void under this subsection must submit a new license application and obtain a new license to continue to

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operate a school of cosmetology.

(6) For the purposes of subsection (2)(a) and section 1207(d), if a student of a school of cosmetology is licensed as a barber under article 11, the school of cosmetology may allow the student to substitute hours of instruction completed at a state barber college for hours of instruction that are substantially similar in content to hours of instruction at the school of cosmetology. However, a school of cosmetology shall not allow a student to substitute more than 1,000 hours of substantially similar instruction from a state barber college for hours of instruction at the school of cosmetology under this subsection. The department by rule shall establish criteria for determining whether an hour of instruction at a state barber college is substantially similar to an hour of instruction at a school of cosmetology. As used in this subsection and subsection (7), "state barber college" means a barber college that is licensed under article 11.

(7) A school of cosmetology and a state barber college may occupy the same building and share facilities.

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. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2020, Act 20, Eff. Apr. 26, 2020;—Am. 2020, Act 27, Eff. May 4, 2020.

Popular name: Act 299

339.1205a Apprenticeship program; requirements; fees prohibited.

Sec. 1205a. (1) The owner of a school of cosmetology, or the owner of a cosmetology establishment that conducts an apprenticeship program, shall ensure that the school or apprenticeship program meets all of the following requirements:

(a) A student or apprentice is not required to be in attendance for more than 40 hours per week.

(b) A daily record of the attendance of each student or apprentice is maintained and a copy of the record is sent to the department monthly.

(c) A grading system for students or apprentices is established.

(d) A student or apprentice is required to pass an examination before the owner of the school or establishment certifies to the department that he or she has completed training.

(e) A student or apprentice is only permitted to practice on members of the public after he or she completes at least 350 hours of instruction in the general cosmetology curriculum, including both theory and practical hours. A student or apprentice in a natural hair cultivation, manicuring, skin care, or electrology curriculum may only practice on the public after he or she completes at least 1/4 of the hours required by the applicable curriculum, including both theory and practical hours.

(f) Before the school begins training a student, or the establishment accepts an apprentice, the owner of the school or establishment obtains proof that the student or apprentice has a high school education, or the equivalent of a high school education. This subdivision does not apply to a student who is enrolling in a program offered as a part of the regular curriculum of a public school and approved by the state board of education.

(g) Before the school begins training a student, or the establishment accepts an apprentice, the owner of the school or establishment submits an application to the department on behalf of the student or apprentice. The owner of the school or establishment shall retain a copy of the proof of education described in subdivision (f), if applicable, and the application described in this subdivision in the records of the school or establishment until the student or apprentice applies for examination to obtain a license.

(2) The owner of a cosmetology establishment that conducts an apprenticeship program shall not charge a fee for the teaching of cosmetology services to apprentices on the premises.

(3) The owner of a cosmetology establishment where 1 apprentice has been successfully trained may allow the training of additional apprentices at the establishment, except that not more than 2 apprentices may be trained at the same time.

(4) If the location of a cosmetology establishment where an apprenticeship program is conducted changes, the owner of the cosmetology establishment may continue the apprenticeship program at the new location if a new license is issued under section 1204(4), and an apprentice who was receiving training at the original location may continue to receive training at the new location.

History: Add. 2020, Act 20, Eff. Apr. 26, 2020.

Popular name: Act 299

339.1206 Issuance of license as cosmetology, electrology, limited, or specialist instructor.

Sec. 1206. (1) The department shall issue a license as a cosmetology instructor to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has a high school diploma or its equivalent.

(c) Is licensed as a cosmetologist under this article.

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(d) Has at least 3 years of practical experience in natural hair cultivation, hair care services, skin care services, and manicuring services, at least 1 year of which shall be in a cosmetology establishment.

(e) Has completed not less than 500 hours of instructor training.

(f) Has passed an examination approved by the department and the board.

(2) The department shall issue a license as an electrology instructor to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has a high school diploma or its equivalent.

(c) Is licensed as an electrologist under this article.

(d) Has at least 3 years of practical experience in electrology, at least 1 year of which shall be in a cosmetology establishment holding a limited license for the practice of electrology.

(e) Has completed not less than 300 hours of instructor training.

(f) Has passed an examination approved by the department and the board.

(3) The department may issue a limited instructor's license to an individual who meets all of the requirements of either subsection (1) except for subsection (1)(d) or subsection (2) except for subsection (2)(d). The holder of a limited instructor's license shall not supervise a school of cosmetology at any time.

(4) The department may issue a limited specialist instructor's license to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has a high school diploma or its equivalent.

(c) Is licensed as a manicurist, natural hair culturist, or esthetician.

(d) Has completed not less than 300 hours of instructor training.

(e) Has passed an examination approved by the department and the board.

(5) The specialist instructor's license shall limit the instruction given by that individual to only the service in which he or she is licensed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Popular name: Act 299

339.1207 Cosmetologist; qualifications.

Sec. 1207. The department shall issue a cosmetologist license to an individual who fulfills all of the following requirements:

(a) Is not less than 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed either not less than a 1,500-hour course of study in a licensed school of cosmetology or has served as an apprentice for not less than 2 years in a licensed cosmetology establishment in which hair care services, skin care services, and manicuring services are offered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) Has passed an examination prescribed by the department and the board.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1982, Act 377, Eff. Mar. 30, 1983;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Popular name: Act 299

339.1208 Electrologist; qualifications.

Sec. 1208. The department shall issue a license as an electrologist to an individual who fulfills all of the following:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed not less than 400 hours of training in a licensed school of cosmetology in which the practice is taught or has studied for not less than 6 months as an apprentice in a licensed cosmetology establishment where electrology services are offered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) Has passed an examination prescribed by the board and the department.

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. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Popular name: Act 299

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339.1209 Manicurist; qualifications.

Sec. 1209. The department shall issue a license as a manicurist to an individual who fulfills all of the following:

(a) Is at least 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed not less than 400 hours of training either in a licensed school of cosmetology or as an apprentice for not less than 6 months in a licensed cosmetology establishment where manicuring is practiced. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) Has passed an examination prescribed by the board and the department.

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. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Popular name: Act 299

339.1210 Esthetician; qualifications.

Sec. 1210. (1) After the expiration of 12 months after the effective date of the 1997 amendatory act that amended this section, the department shall issue a license as an esthetician to an individual who fulfills all of the following requirements:

(a) Is at least 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed not less than 400 hours of training either in a licensed school of cosmetology or as an apprentice for not less than 6 months in a licensed cosmetology establishment where skin care services are rendered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) If an examination is available, has passed an examination prescribed by the board and the department.

(2) Until the expiration of 12 months after the effective date of the 1997 amendatory act that added this subsection, the department shall issue a license as an esthetician to an individual who fulfills all of the following requirements:

(a) Is at least 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Provides evidence of having obtained the equivalent of 6 months of full-time experience in skin care services in this or any other state within the 12 months immediately preceding the date of application.

(e) If an examination is available, has passed an examination prescribed by the board and the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Popular name: Act 299

339.1210a License to practice natural hair cultivation; qualifications.

Sec. 1210a. (1) After December 31, 1999, the department shall issue a license to practice natural hair cultivation to an individual who fulfills all of the following:

(a) If an examination is available, has passed an examination prescribed by the department and the board. In lieu of an examination being available, the department shall evaluate the experience of an applicant, which experience shall include at least 6 months of field practice or experience.

(b) Is at least 17 years of age.

(c) Is of good moral character.

(d) Has an education equivalent to the completion of the ninth grade.

(e) Has training either of at least 400 hours extending over a period of at least 3 months in a school of cosmetology approved by the department where services relating to natural hair cultivation are rendered or has served at least 6 months as an apprentice in a licensed cosmetology establishment in which natural hair cultivation is practiced.

(2) Until December 31, 1999, the department shall issue a license to practice natural hair cultivation to an individual who fulfills all of the following:

(a) If an examination is available, has passed an examination prescribed by the board and the department. In lieu of an examination being available, the department shall evaluate the experience of an applicant, which experience shall include at least 6 months of field practice or experience.

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(b) Is at least 17 years of age.

(c) Is of good moral character.

(d) Has an education equivalent to the completion of the ninth grade.

(3) Notwithstanding any other provision in this article, an individual may engage in natural hair cultivation for compensation and may operate an establishment where natural hair cultivation only is practiced without having first obtained an individual or establishment license under this article.

History: Add. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Popular name: Act 299

339.1211 Granting license to individual licensed to perform cosmetology services in another state; application; qualifications; applicant for licensure having qualifications acquired outside United States; proof of training or experience; determination.

Sec. 1211. (1) An individual who is licensed to perform cosmetology services under the laws of another state may submit an application to the department, and the department shall without examination issue a license to perform those services if the department determines that all of the following are met:

(a) The applicant is at least 17 years old.

(b) The applicant is of good moral character, and the requirements for registration or licensure in the particular state were substantially equal to the requirements then in effect in this state.

(c) The applicant establishes that sanctions have not been imposed against him or her by a similar licensing or registration board of any other state.

(2) Years or months of experience may be substituted for hours of training in a ratio of 100 hours of training credited for each 6 months of experience.

(3) An individual who is applying for licensure based on qualifications he or she acquired outside of the United States shall provide proof of training or experience, or both. The department may determine whether or not an applicant is eligible for a license without examination.

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. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2020, Act 20, Eff. Apr. 26, 2020.

Popular name: Act 299

339.1212, 339.1213 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's note: The repealed sections pertained to reexaminations and to renewal of licenses.

Popular name: Act 299

339.1214 Repealed. 2020, Act 20, Eff. Apr. 26, 2020.

Compiler's note: The repealed section pertained to enrollment in cosmetology school and proof of ninth grade education or equivalent.

Popular name: Act 299

339.1215 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's note: The repealed section pertained to renewal of license.

Popular name: Act 299

339.1216 Repealed. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

Compiler's note: The repealed section pertained to license required to conduct or operate cosmetological establishment or school of cosmetology.

Popular name: Act 299

339.1217 Prohibited conduct; penalties.

Sec. 1217. A licensee that commits or has committed 1 or more of the following is subject to the penalties set forth in article 6:

(a) Continued practice by an individual who knows he or she has an infectious or contagious disease.

(b) Except as otherwise provided in this subdivision, practicing cosmetology on the public outside of the premises of a licensed cosmetology establishment or school of cosmetology. A licensed cosmetologist may perform cosmetology services for a patron at a location that is not on the premises of a licensed cosmetology establishment if the services are performed at any of the following:

(*i*) A special event in which the cosmetology service is required to be performed for an on-site participant of the event.

(*ii*) A nursing home, as that term is defined in section 20109 of the public health code, 1978 PA 368, MCL

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333.20109, for a patient or resident of that home.

(*iii*) A home for the aged, as that term is defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, for a patient or resident of that home.

(*iv*) An adult foster care facility, as that term is defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, for a patient or resident of that facility.

(*v*) A hospital, as that term is defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, for a patient of that hospital.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2020, Act 20, Eff. Apr. 26, 2020 .

Popular name: Act 299

339.1217a Demonstration of product on face of customer.

Sec. 1217a. Nothing in this act shall be construed to prevent a salesperson from demonstrating a product on the face of a customer or potential customer, if direct or indirect compensation for the practice, other than the sale of the product, is not received nor expected from the customer or potential customer. "Demonstrating a product" means applying to the face of a customer or potential customer only as much of a product as is necessary to demonstrate its correct use.

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

Popular name: Act 299

339.1218 Cosmetology establishment and school of cosmetology; inspections.

Sec. 1218. (1) The department shall regularly inspect each cosmetology establishment and school of cosmetology to determine whether the licensee is conforming to this article and the rules promulgated under this article.

(2) A representative of the department may enter and inspect, during regular business hours, a cosmetology establishment or school of cosmetology for purposes of subsection (1).

(3) A representative of the department, when inspecting a cosmetology establishment or school of cosmetology, may require an individual who is working in the establishment or school to present identification in order to substantiate his or her identity as the holder of a posted license.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997;—Am. 2020, Act 20, Eff. Apr. 26, 2020 .

Popular name: Act 299

ARTICLE 13

339.1301 Definitions.

Sec. 1301. As used in this article:

(a) "Hearing aid" means an instrument or device designed for regular and constant use in or proximate to the human ear and represented as aiding or improving defective human hearing.

(b) "Hearing aid dealer" means an individual who engages in the sale or offering for sale at retail of a hearing aid.

(c) "Hearing aid salesperson" means an individual who engages in the sale or offering for sale at retail of a hearing aid and who is an employee of a hearing aid dealer.

(d) "Practice of selling or fitting a hearing aid" means the selection, adaptation, and sale of a hearing aid and includes the testing of hearing by means of an audiometer and other means for the sale of a hearing aid. The practice also includes the making of an impression for an ear mold.

(e) "Unethical conduct" means:

(*i*) Selling a hearing aid intended to be used by an individual 16 years of age or less without an otologic examination and approval by a physician and an audiologic evaluation and recommendation.

(*ii*) Canvassing from house to house or place of business either in person or by an agent for selling a hearing aid without prior referral or request.

(*iii*) Failing to properly and reasonably accept responsibility for the actions of a licensed trainee.

(*iv*) Offering, paying, causing to be paid, or inferring that a payment might be made, directly or indirectly, of money or other thing of value to an audiologist, otologist, physician, clinic, or other similar medical person or institution as a consideration for a referral by a medical person or institution or as a part of an agreement with a medical person or institution.

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

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department

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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 hearing aid dealers from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the board of hearing aid dealers, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 299

339.1302 Person selling or offering for sale hearing aid at retail without license; employment of licensed hearing aid dealers and salespersons; filing list and statement; maintaining place of business at established physical location; branch office.

Sec. 1302. This article shall not prohibit a person from engaging in the business of selling or offering for sale a hearing aid at retail without a license, if the person employs only licensed hearing aid dealers and salespersons in the direct sale and fitting of the product. Each person shall file annually with the department a list of each licensed hearing aid dealer or salesperson directly or indirectly employed by the person and a statement on a form approved by the department that the person will submit to the rules promulgated under this article and the provisions of this article which the department considers applicable. A person engaging in the business of selling or offering for sale a hearing aid at retail shall maintain a place of business in this state which is an actual, established physical location from which the person conducts business and where each applicable book or record is maintained. A branch office of the person shall be under the personal direct supervision of a hearing aid dealer or hearing aid salesperson as qualified in section 1305.

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

Popular name: Act 299

339.1303 Board of hearing aid dealers; creation; qualifications of members.

Sec. 1303. (1) The board of hearing aid dealers is created. Six members shall be qualified hearing aid dealers who have been actively engaged in the sale of hearing aids for at least 3 years.

(2) Not more than 2 members of the board shall be employees of, franchised by, or associated exclusively with, the same hearing aid manufacturer.

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

Popular name: Act 299

339.1304 Hearing aid dealer or salesperson; licensing; list.

Sec. 1304. (1) The department shall issue a license as a hearing aid dealer or salesperson to each person it finds qualified under this article.

(2) Upon the request of a person, the department shall furnish a list of licensed hearing aid dealers.

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

Popular name: Act 299

339.1305 Hearing aid dealer or salesperson; license; application; qualifications of applicant; specialized educational course of training; accepting basic home study course in place of examination; waiver of examination.

Sec. 1305. (1) An individual wishing to sell or fit a hearing aid in connection with the sale of a hearing aid as a dealer shall make application to the department. An individual employed by a dealer as a hearing aid salesperson shall make application to the department.

(2) An applicant for a license as a hearing aid dealer shall be issued a license if the applicant is over 18 years of age, is of good moral character, is a graduate of an accredited high school or secondary school, has served as a licensed hearing aid salesperson for a period of 2 years under the direction and supervision of a licensed hearing aid dealer, and passes a written examination as prescribed by the department and the board.

(3) An applicant for a license as a hearing aid salesperson shall be issued a license if the applicant is at least 18 years of age, is of good moral character, is a graduate from an accredited high school or secondary school, successfully completes additional training and education as may be required by the department, passes a written examination as prescribed by the department and the board, and has served at least 6 months as a trainee licensed by the department.

(4) The department and the board shall encourage the establishment of a specialized educational course of training for an individual wishing to become a licensed hearing aid dealer or hearing aid salesperson.

(5) In place of the written examination provided in subsection (2), the department may accept successful completion of the basic home study course conducted by the national hearing aid society or may waive the examination provided for in subsection (2) when proof satisfactory to the department and the board is submitted showing that the applicant has successfully passed an examination given by the official hearing aid

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examining board in another state, if the examination and passing requirements at the time taken, were substantially equal to those required by the department.

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

339.1306 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's note: The repealed section pertained to renewal of license.

Popular name: Act 299

339.1307 Trainee license; conditions; transfer; revocation.

Sec. 1307. (1) The department may grant a trainee license to an applicant working for and under the direct supervision of a licensed dealer on the following conditions:

(a) The trainee license shall be valid for a 12-month period. A new trainee license may be issued by the board upon the filing of an application.

(b) The trainee license shall provide that the individual to whom it was issued shall work for and under the direction and supervision of a named licensed hearing aid dealer.

(2) The department may transfer a license of a trainee upon the filing of an application for a transfer.

(3) A trainee license is subject to revocation for the same reasons and in a similar manner as a regular license.

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

Popular name: Act 299

339.1308 Written examination.

Sec. 1308. The written examination provided for in section 1305 shall test the applicant's knowledge and shall be a practical demonstration of the potential seller's ability in giving a basic audiometric test, in taking an ear mold impression, and in following the prescribed rules in fitting and referral for otologic examination.

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

Popular name: Act 299

339.1309 Unethical or gross ignorance or inefficiency in sale or fitting of hearing aid; penalties.

Sec. 1309. A person shall be subject to the penalties set forth in article 6 who commits an act of unethical or gross ignorance or inefficiency in the sale of a hearing aid or in the fitting of a hearing aid in connection with the sale of the hearing aid.

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

Popular name: Act 299

ARTICLE 14

339.1401-339.1406 Repealed. 1995, Act 183, Imd. Eff. Oct. 23, 1995.

Compiler's note: The repealed sections pertained to registration requirements for the practice of horology.

Popular name: Act 299

339.1407 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's note: The repealed section pertained to renewal of registration and apprenticeship certificate.

Popular name: Act 299

339.1408 Repealed. 1995, Act 183, Imd. Eff. Oct. 23, 1995.

Compiler's note: The repealed section pertained to prohibited conduct and prescribed penalties.

Popular name: Act 299

ARTICLE 15

339.1501-339.1511 Repealed. 1988, Act 436, Eff. Sept. 1, 1989;—1995, Act 126, Eff. Jan. 1, 1996.

Compiler's note: The repealed sections pertained to marriage and family therapy.

Popular name: Act 299

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ARTICLE 16

339.1601-339.1610 Repealed. 1988, Act 463, Eff. Sept. 1, 1989;—2000, Act 11, Imd. Eff. Mar. 7, 2000.

Compiler's note: The repealed sections pertained to creation of board of examiners of social workers and registration requirements for certified social worker, social worker, or social work technician.

Popular name: Act 299

ARTICLE 17

339.1701-339.1707 Repealed. 1988, Act 463, Eff. Sept. 1, 1989;—1995, Act 104, Imd. Eff. June 23, 1995.

Compiler's note: The repealed sections pertained licensing of myomassologists.

Popular name: Act 299

ARTICLE 18

339.1801 Definitions.

Sec. 1801. As used in this article:

(a) "Business entity" means a person described in section 105(5)(b) or (c), except a sole proprietorship or general partnership.

(b) "Funeral establishment" means a place of business used in the care and preparation for burial or transportation of a dead human body or a place where an individual represents that he or she is engaged in the profession of undertaking or the practice of mortuary science.

(c) "Holder of a license for the practice of mortuary science" means an individual who satisfactorily completes a course in mortuary science, passes an examination required under this article, serves the required resident training, and is issued a license for the practice of mortuary science.

(d) "Practice of embalming" means the disinfecting or preserving of a dead human body, entirely or in part, by the use of a chemical substance, fluid, or gas in the body or by the introduction of a chemical substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity.

(e) "Practice of funeral directing" means engaging in or representing oneself as engaging in the supervising of the burial and disposal of a dead human body, managing a funeral establishment for the preparation, disposition, and care of a dead human body, or using, in connection with the user's name or funeral establishment, the word "funeral director", "funeral service professional", "undertaker", or "mortician", or any other title embodying the words "mortuary science" or otherwise implying that the individual is engaged as a funeral director.

(f) "Practice of mortuary science" means the practice of embalming or the practice of funeral directing, or both.

(g) "Resident trainee" means an individual who is engaged in learning the practice of embalming or funeral directing or the practice of mortuary science under the instruction and personal supervision of a holder of a license for the practice of mortuary science in this state.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2006, Act 300, Imd. Eff. July 20, 2006;—Am. 2020, Act 138, Eff. Oct. 6, 2020;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Compiler's note: 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

339.1802 Board of examiners in mortuary science; creation.

Sec. 1802. The board of examiners in mortuary science is created.

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

Popular name: Act 299

339.1803 Placing chemical on or in dead human body by unlicensed individual as violation; article inapplicable to resident trainee or student; license required for practice of embalming.

Sec. 1803. (1) The placing of a chemical on or in a dead human body by an individual who is not the holder of a license for the practice of mortuary science is a violation of this article.

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(2) This article does not apply to any of the following individuals if he or she is working under the supervision of a holder of a license for the practice of mortuary science:

(a) A resident trainee.

(b) A student who is enrolled in a higher education program in mortuary science at a school, college, or university that is accredited by an accrediting agency that is recognized by the United States Secretary of Education as a specialized accrediting agency in funeral service or mortuary science.

(3) An individual shall not engage in the practice of embalming, profess to be engaged in the practice of embalming, or represent that he or she is an embalmer if he or she is not the holder of a license for the practice of mortuary science under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2019, Act 25, Imd. Eff. June 18, 2019.

Popular name: Act 299

339.1804 Funeral establishment; individuals required to be license holder for practice of mortuary science; funeral establishment use of name after death or retirement of member.

Sec. 1804. (1) An individual whose name appears in the name of a funeral establishment is considered to be actively engaged in the practice of funeral directing or the practice of mortuary science and must be a holder of a license for the practice of mortuary science.

(2) A business entity that is licensed as a funeral establishment under section 1806(3) may use or continue to use the name of the licensed funeral establishment after the death or retirement of a member, officer, or director if the death or retirement is reported to the department not more than 30 days after the death or retirement and if the name of the licensed funeral establishment was used prior to the death or retirement of the member, officer, or director.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1805 Authorized activities of licensee.

Sec. 1805. An individual licensed to engage in the practice of mortuary science under this article may disinfect or preserve a dead human body, entirely or in part, by the use of a chemical substance, fluid, or gas in the body or by the introduction of a chemical, substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity in preparation for burial or disposal. The individual licensed to engage in the practice of mortuary science may direct the burial or disposal of a dead human body and may maintain a funeral establishment for the preparation and disposition, or for the care of a dead human body and may, in connection with the individual's name or the name of the funeral establishment use the words "funeral director", "undertaker", "mortician", "mortuary science", or a word of similar meaning as approved by the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1806 Practice of mortuary science; license; requirements; establishment license; ownership interests; inspection; revocation or cancellation of license; reporting change in ownership or location; reciprocity.

Sec. 1806. (1) The department shall issue a license to engage in the practice of mortuary science to an individual who meets all of the following:

(a) Subject to subsection (2), served as a resident trainee for 1 year under the personal supervision and instruction of the holder of a license for the practice of mortuary science.

(b) Graduated from a 3-year course in mortuary science at a school, college, or university that is accredited by an accrediting agency recognized by the United States Secretary of Education as a specialized accrediting agency in funeral service or mortuary science.

(c) Satisfactorily passes all of the required parts of an examination administered and developed by a national or international association of funeral service licensing boards and approved by the department and the board.

(d) Satisfactorily passes a Michigan examination developed and administered by or under the authority of the department.

(e) Is of good moral character.

(2) The department may waive a portion of the requirement under subsection (1)(a) of 1 year of resident training if the applicant has a baccalaureate degree from an accredited school, college, or university, and the department determines that the degree is a satisfactory substitute for the resident training.

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(3) A person may only engage in the practice of mortuary science at a fixed location. A person shall not open or maintain a place for practice, or hold itself out as engaging in the practice of mortuary science, without an establishment license issued by the department. An establishment license under this subsection is issued for a specific location only. The holder of a license for the practice of mortuary science may conduct a funeral in another licensed funeral establishment at a church, home, public hall, lodge room, or other fixed place or at another establishment that is owned by the person and that meets the requirements of section 1809.

(4) The department shall not issue or renew an establishment license under subsection (3) unless the applicant certifies that either of the following is met at the time of application:

(a) The applicant, or a person that has a controlling interest in, or that is under common ownership with, the applicant, is registered with the department under section 6 of the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.216.

(b) The applicant has a contract with a registrant under which the registrant sells, provides, or agrees to sell or provide merchandise, funeral services, or cemetery services under a prepaid contract on behalf of the funeral establishment. As used in this subdivision and subsection (6), "cemetery services", "funeral services", "merchandise", "prepaid contract", "provider", and "registrant" mean those terms as defined in the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(5) An applicant for an establishment license issued under subsection (3) shall disclose the ownership interests in the funeral establishment as follows:

(a) If the owner is a trust, the applicant shall disclose the names and addresses of the beneficiaries.

(b) If the owner is a privately held corporation, the applicant shall disclose the names and addresses of all shareholders, officers, and directors.

(c) If the owner is a publicly held corporation, the applicant shall disclose the names and addresses of the officers and directors and all shareholders holding a direct or indirect interest of greater than 5%.

(d) If the owner is a partnership or limited liability partnership, the applicant shall disclose the names and addresses of all partners.

(e) If the owner is a limited partnership or limited liability limited partnership, the applicant shall disclose the names and addresses of all partners, both general and limited.

(f) If the owner is a limited liability company, the applicant shall disclose the names and addresses of all members and managers.

(6) If an establishment license is canceled under subsection (8) because of a change of ownership of the funeral establishment, the department shall not grant a new license for that establishment unless the applicant assumes the obligations of any unperformed prepaid contracts in which the former establishment was designated as the provider under section 11(1) of the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.221, or certifies that the unperformed prepaid contracts have been assigned to another funeral establishment or to a person that has a contract with a funeral establishment that has agreed to act as the provider.

(7) The department may inspect a funeral establishment or a branch of a funeral establishment, and the funeral establishment or branch must meet the requirements of section 1809 and any other standards and requirements established by rule of the department under this act. The department may revoke a license for a failure to meet any of the standards and requirements described in this subsection under the procedure set forth in this article.

(8) A change in ownership or change in location of a funeral establishment, or a change in business entity or change in ownership of a business entity that owns a funeral establishment, automatically cancels its license. A licensee shall report a change in ownership or location to the department not more than 30 days after the change. As used in this subsection, "change in ownership" means a change of the owners of a majority of shares of stock, a change of a majority of a business entity's members, officers, or directors, or a change in a sole proprietorship's or general partnership's owners.

(9) Subject to subsection (10), the department shall issue a license for the practice of mortuary science to an individual who holds or previously held a valid mortuary science license, or dual licenses as a funeral director and embalmer, in another state if he or she meets all of the following:

(a) Applies for a license to engage in the practice of mortuary science in this state.

(b) Completed a mortuary science program that is accredited by an agency recognized by the United States Secretary of Education as a specialized accrediting agency in funeral service or mortuary science.

(c) Satisfactorily passed all of the required parts of an examination administered and developed by a national or international association of funeral service licensing boards and approved by the department and the board.

(d) Files with the department a certified statement from the examining board of the state in which the applicant holds a license that shows the basis on which the license was granted, and whether that board has

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suspended, revoked, or limited that license.

(e) Passes an examination approved by the department and the board that tests the individual's knowledge of law relating to the practice of mortuary science in this state.

(10) The department may refuse to issue a mortuary science license to an individual described in subsection (9) based on evidence that his or her license in the other state was suspended, revoked, or limited at any time.

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. 2013, Act 80, Eff. Sept. 26, 2013;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

Administrative rules: R 339.18901 et seq. of the Michigan Administrative Code.

339.1806a Practice of mortuary science; issuance of courtesy license; requirements; validity; conduct; prohibitions; restrictions; "courtesy license" defined.

Sec. 1806a. (1) The department may issue a courtesy license to engage in the practice of mortuary science to an individual if the department determines that all of the following are met:

(a) The individual holds a valid license to practice mortuary science, funeral directing, or another occupation that is the equivalent of the practice of mortuary science or funeral directing, issued by the state of Indiana, Ohio, or Wisconsin.

(b) The state that issued the license described in subdivision (a) by law provides individuals licensed under this article substantially the same opportunity to practice in that state as its licensees are authorized to practice in this state under this section.

(2) A courtesy license is valid for 2 years, beginning on the date it is issued or renewed.

(3) An individual who holds a courtesy license may do any of the following:

(a) Remove a dead human body from the place of death in this state.

(b) Register with a local registrar under section 1807.

(c) Subject to section 1807, transport a dead human body to or from the state in which he or she is licensed.

(d) Subject to section 1807, supervise the final disposition in this state of the human body of an individual who died in the state in which he or she is licensed.

(4) An individual who holds only a courtesy license shall not do any of the following in this state:

(a) Operate a funeral establishment.

(b) Engage in the practice of embalming.

(c) Advertise mortuary science, funeral directing, or cremation services.

(d) Directly or indirectly own, manage, operate, maintain, or be employed by a cemetery or crematory or engage in any similar activity for which registration is required under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543.

(e) Violate section 1810.

(5) The department shall ensure that a courtesy license is issued with the restrictions described in this section.

(6) As used in this section, "courtesy license" means a license issued under this article to an individual described in subsection (1) that is subject to the restrictions described in this section.

History: Add. 2013, Act 77, Eff. Sept. 26, 2013.

Popular name: Act 299

339.1806b Continuing education requirements.

Sec. 1806b. (1) Beginning the first complete license cycle after October 31, 2025, the holder of a license for the practice of mortuary science shall successfully complete not less than 4 hours of eligible continuing education courses in each year of a license cycle.

(2) All of the following apply to the continuing education requirement described in subsection (1):

(a) Not less than 2 of the 4 hours of the courses required in each year of a license cycle shall involve 1 or more of the following subjects:

(*i*) Technical skills required for embalming and restorative art.

(*ii*) Funeral ethics and funeral service best practices.

(*iii*) Grief counseling.

(*iv*) Occupational health and safety for funeral home workers.

(*v*) Communicable diseases including transmission and sterilization techniques.

(*vi*) Statutes and rules of this state relating to the practice of funeral directing.

(*vii*) Prepaid funeral sales.

(*viii*) Consumer protection, Federal Trade Commission funeral rules, and fair labor standards requirements.

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(b) The department shall determine whether a continuing education course is an eligible continuing education course.

(c) If an individual receives his or her initial license to engage in the practice of mortuary science after the beginning of the current license cycle for that license, the department may prorate the number of hours of continuing education the licensee is required to complete under subsection (1) for the year of the license cycle in which the license is issued.

(d) Compliance with the continuing education requirement described in this section is a condition to further renewal of a license for the practice of mortuary science.

History: Add. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1807 Holder of license for practice of mortuary science; registration with city or village registrar; transportation permit; receiving dead human body for shipment or transportation; shipping dead human body for anatomical purpose.

Sec. 1807. (1) The holder of a license for the practice of mortuary science shall supervise and be responsible for the transportation and storage of a dead human body. The holder of a license for the practice of mortuary science may designate an employee or other person to transport or store a dead human body.

(2) The holder of a license for the practice of mortuary science shall register with the office of the registrar of each city or village in which the holder intends to practice. A transportation permit shall not be issued by the local registrar to a person who has not filed a registration card. A local registrar may grant a transportation permit to the holder of a license for the practice of mortuary science coming from beyond the jurisdiction of the registrar, upon the exhibition of a copy of the holder's license to the registrar.

(3) A railway agent, express agent, baggage master, or conductor shall not receive a dead human body for shipment or transportation by railway or other public conveyance, to or from a point in this state or to a point outside of this state, unless the body is accompanied by a removal or shipping permit.

(4) This section does not apply to any of the following:

(a) The transportation or storage of a dead human body that is the subject of an anatomical gift under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(b) The transportation of a dead human body by a county medical examiner.

(c) The removal of a dead human body from the place of death by police, fire, or other emergency personnel.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1808 Resident trainee; license; qualifications; service; notice; reports; statement; supervision.

Sec. 1808. (1) The department shall issue a license as a resident trainee to an individual who is of good moral character and possesses a high school diploma or its equivalent. Resident training shall be served only under the sponsorship and in the licensed funeral establishment of the holder of a license for the practice of mortuary science. When a resident trainee enters the employ of a person licensed under this article, the trainee immediately shall notify the department of the name and place of business of the person whose service the trainee has entered. If a resident trainee leaves the employ of the person whose service the trainee has entered, the person shall file with the department a notice showing the length of time the trainee has served as a resident trainee. If the resident trainee enters the employ of another person licensed under this article, the trainee immediately shall report the employment to the department. Resident training may be served after satisfactory completion of an accredited school or college, or professional instruction prescribed by the department and the board.

(2) A resident trainee licensed as provided in this section shall be required to report to the department semiannually on January 15 and July 15 upon a form provided by the department, showing the work which the trainee completed during the 6 months preceding the first of the month in which the report is made. The data contained in the report shall be certified to as its correctness by the licensee under whom the trainee has served during that period.

(3) Before a resident trainee shall be eligible to engage in the practice of mortuary science, the trainee shall present, in connection with the other evidence required by this article, a statement from each holder of a license to practice mortuary science under whom the trainee has trained, showing that the trainee has embalmed for burial or shipment at least 25 dead human bodies, or has assisted the holder of a license for the practice of mortuary science in supervising the preparation of 25 dead human bodies for burial or

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transportation during the period of resident training. A resident trainee shall meet other training or requirements as may be required by rules of the department and the board.

(4) Not more than 1 resident trainee shall be supervised by a licensee. The supervisor for a trainee shall be actively connected with a funeral establishment.

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

339.1809 Funeral establishment; ownership and management by license holder; requirements; waiver for management of more than 1 funeral establishment; revocation of license; management of branch establishment; inspection of premises; preparation room and equipment; compliance.

Sec. 1809. (1) All of the following apply to the ownership and management of a funeral establishment:

(a) A funeral establishment shall be managed by an individual who is the holder of a license for the practice of mortuary science. The manager shall ensure that the funeral establishment complies with all applicable laws.

(b) A funeral establishment shall notify the department in writing of the name of the individual appointed as the manager of the funeral establishment and conspicuously display the name of the manager at the entrance of the funeral establishment.

(c) A manager of a funeral establishment shall not reside more than 75 miles from that funeral establishment.

(d) Except as provided in subsection (2), an individual shall not manage more than 1 funeral establishment.

(e) If a new manager is appointed for a funeral establishment, the funeral establishment shall notify the department in writing of the name of the new manager not more than 30 days after the date of his or her appointment.

(2) The director shall receive and approve or deny requests for waivers to allow an individual to act as the manager of 2 funeral establishments under this subsection. All of the following apply to a request for a waiver under this subsection:

(a) The prospective manager shall request the waiver. The request must include the following:

(*i*) The prospective manager's name and mortuary science license number.

(*ii*) The name and license number of each funeral establishment affected.

(*iii*) Documentation supporting the existence of the factors listed in subdivision (b).

(b) The director shall not grant a waiver under this subsection unless all of the following factors are met:

(*i*) The funeral establishments are located in the same county or contiguous counties.

(*ii*) The population density of the county in which each of the funeral establishments is located is less than the population density for this state, based on data from the most recent decennial census.

(*iii*) The funeral establishments are located within 90 miles of each other.

(c) If the waiver is denied, the director shall send a written notice of the denial and the reasons for denial to the individual who requested the waiver. The individual may appeal the denial to the board in the manner provided for in section 515.

(3) An individual whose license is revoked under this article shall not own or manage, either directly or indirectly, or hold an interest in, a funeral establishment. This subsection does not prohibit an individual whose license is revoked from leasing property owned by the individual for use as a funeral establishment if the individual does not participate in the control or profit of the funeral establishment, other than as a lessor of the premises for a fixed rental that is not dependent on earnings.

(4) A branch establishment shall be managed by an individual who is the holder of a license for the practice of mortuary science. The manager shall ensure that the branch establishment complies with all applicable laws.

(5) The department and the board may inspect the premises of any location where funeral directing is conducted, embalming is practiced, or an applicant intends to engage in the practice of mortuary science.

(6) A funeral establishment shall contain a preparation room equipped with tile, cement, or composition floor and necessary drainage and ventilation, and contain each necessary instrument or supply for the preparation and embalming of a dead human body for burial, transportation, or other disposition.

(7) A branch establishment is subject to all of the requirements or rules relating to a funeral establishment.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2020, Act 138, Eff. Oct. 6, 2020;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1809a Disposition of unclaimed cremated remains; immunity from liability; definitions.

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Sec. 1809a. (1) An individual who is licensed to engage in the practice of mortuary science is immune from civil liability for the proper disposition of unclaimed cremated remains if the funeral establishment maintains and safeguards the unclaimed cremated remains until proper disposition of the remains and any of the following are met:

(a) The disposition of the unclaimed cremated remains is made 6 months or longer after the date of cremation and, if notice is required under subsection (2), at least 30 days after the date the notice is sent.

(b) The disposition is authorized by a special fiduciary or special personal representative under section 3206(8) of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(c) The disposition is authorized by a medical examiner under section 3206(9)(a) of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(2) Except as provided in subsection (3), a funeral director claiming immunity under subsection (1) shall make reasonable efforts to provide written notice of intent to make proper disposition of the unclaimed cremated remains to the individuals who have the right to make decisions relating to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. Reasonable efforts include, but are not limited to, mailing the notice to the last known addresses of those individuals.

(3) Written notice under subsection (2) is not required for any of the following:

(a) A proper disposition of unclaimed cremated remains by transfer of the remains to any relative of the decedent that is made more than 1 year after the date of cremation.

(b) Any proper disposition of unclaimed cremated remains that is made more than 2 years after the date of cremation.

(4) If unclaimed cremated remains are removed from or transferred to a cemetery, the mortuary science licensee shall present a written statement to the cemetery certifying compliance with the requirements of subsection (1), and subsection (2) if applicable, at the time the unclaimed cremated remains are removed or presented for proper disposition.

(5) If unclaimed cremated remains are determined to belong to a veteran, a cemetery that relies on a written statement presented by an individual who is licensed in the practice of mortuary science under subsection (4) is immune from civil liability against a claim for damages by the individuals who have the right to make decisions related to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, for having interred, entombed, or inurned cremated remains without their authorization.

(6) This section does not supersede the provisions of section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, involving the priority of individuals who have the right to make decisions relating to the disposition of a decedent's body under that section except that if those individuals who have the right to make decisions related to the disposition of a decedent's body claim the cremated remains after proper disposition under subsection (4), then any costs associated with disinterring or removing the cremated remains from the place of interment, entombment, or inurnment, and other costs associated with their further placement are the responsibility of those individuals, unless otherwise agreed.

(7) As used in this section:

(a) "Armed forces" means that term as defined in section 103 of the skilled trades regulation act, 2016 PA 407, MCL 339.5103.

(b) "Proper disposition" means either of the following:

(*i*) Interment, entombment, or inurnment of unclaimed cremated remains in a cemetery in this state. In the case of the unclaimed cremated remains of a veteran of the armed forces, proper disposition includes the interment, entombment, or inurnment in a cemetery designated solely for veterans by the United States Department of Veterans Affairs or by the department of military and veterans affairs.

(*ii*) A transfer of unclaimed cremated remains to any relative of the decedent that occurs more than 6 months after the date of cremation.

(c) "Unclaimed cremated remains" means the cremated remains of a dead human body that has not been picked up by or delivered to an individual who has the right to make decisions relating to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

History: Add. 2009, Act 149, Eff. July 1, 2010;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1809b Determination of unclaimed cremated remains as veteran; disposition; immunity from liability.

Sec. 1809b. (1) A person licensed in the practice of mortuary science may compile a list of names of the

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unclaimed cremated remains held in his or her possession for 6 months or more for the purposes of determining whether 1 or more of the deceased is a veteran of the United States armed services.

(2) The funeral director may release the list of names to any federally chartered veterans service organization to confirm with the national cemetery administration's central scheduling office in St. Louis, Missouri, whether the deceased is eligible for proper disposition at a veterans cemetery. The veterans service organization shall report to the funeral director regarding the names of the confirmed veterans or spouses of veterans.

(3) If the unclaimed cremated remains are determined to be eligible for proper disposition at a veterans cemetery, the funeral director shall send written notice of intent to make a proper disposition of the unclaimed remains as described under section 1809a(1). If the unclaimed cremated remains of a confirmed veteran are not claimed by the persons to whom the notice was sent, the funeral director may arrange for the proper disposition of the remains with a state or national veterans cemetery.

(4) A funeral director complying with this section is immune from criminal or civil liability arising from compliance with this section.

History: Add. 2009, Act 148, Eff. May 20, 2010.

Compiler's note: This section, as added by Act 148 of 2009, was effective July 1, 2010. Acts 76 and 78 of 2010 amended Act 148 of 2009 by revising the effective date. This section then became effective May 20, 2010.

Popular name: Act 299

339.1810 Prohibited conduct; penalties; rules; training employees.

Sec. 1810. (1) A person shall be subject to the penalties of article 6 if the person commits 1 of the following:

(a) Solicitation of a dead human body by a licensed person or an agent, assistant, representative, employee, or person acting on behalf and with the knowledge and consent, express or implied, of the licensed person, whether the solicitation occurs after death or while death is impending, or the procuring or allowing directly or indirectly of a person to call upon an institution or individual by whose influence a dead human body may be turned over to the licensed person or funeral establishment.

(b) Procuring a person known as capper, steerer, or solicitor to obtain funeral directing or embalming, or allowing or permitting a capper, steerer, or solicitor to obtain funeral directing or embalming for a licensed person or funeral establishment.

(c) The direct or indirect payment or offer of payment of a commission by a licensed person or an agent, representative, assistant, or employee of the licensed person for the purpose of securing business.

(d) Aiding or abetting an unlicensed person to engage in the practice of funeral directing or embalming.

(e) Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of.

(f) Solicitation or acceptance by a licensed person of a commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in a crematory, mausoleum, or cemetery.

(g) Using a casket or part of a casket that has been previously used as a receptacle for, or in connection with, the burial or other disposition of a dead human body. This subdivision does not apply to a casket or part of a casket that was designed and manufactured for more than 1 use.

(h) A violation of any of the following:

(*i*) Section 2652, 2653, 2659, 2663, 2836, 2842, 2843, 2848, 2850, 2851, 2853, or 2854 of the public health code, 1978 PA 368, MCL 333.2652, 333.2653, 333.2659, 333.2663, 333.2836, 333.2842, 333.2843, 333.2848, 333.2850, 333.2851, 333.2853, and 333.2854, or the rules promulgated under those sections.

(*ii*) Sections 3206 to 3209 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206 to 700.3209.

(*iii*) A municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of a dead human body.

(i) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody.

(j) Failure to secure a permit for removal or burial of a dead human body before interment or disposal.

(k) Obtaining possession of or embalming a dead human body without first being expressly directed or authorized to do so by a relative of the decedent or a person entitled to custody. This subdivision does not apply to the embalming of a dead human body if in accordance with sections 3206 to 3209 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206 to 700.3209, reasonable efforts to obtain the authorization described in this subdivision have been made but were not successful and more than 48 hours have elapsed since the decedent's death.

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(*l*) Knowingly making a false statement on a certificate of death.

(m) Removing or embalming a dead human body if there is information indicating the commission of a crime or an act of violence in connection with the cause of death, unless permission of the county medical examiner has first been obtained.

(n) If a public officer or employee, an official of a public institution, convalescent home, private nursing home, maternity home, public or private hospital, physician or surgeon, or any other person having a professional relationship with a decedent, or a county medical examiner or other public official having temporary custody of the decedent, sending or causing to be sent to a person or establishment licensed under this article the remains of a deceased person without having first made inquiry as to the desires of the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, and of the person that may be chargeable with the funeral expenses of the decedent. If a person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, is found, the person's authority and directions shall govern the disposal of the remains of the decedent.

(o) If a licensee, receiving remains in violation of the requirements of subdivision (n) and making a charge for a service in connection with the remains before the delivery of the remains as stipulated by the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. This subdivision shall not prevent a person or establishment licensed under this article from charging and being reimbursed for services rendered in connection with the removal of the remains of a deceased person in case of accidental or violent death, and rendering necessary services required until the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, or the person that is chargeable with the funeral expenses is notified.

(p) If a funeral establishment or a licensee, entering upon an agreement, directly or indirectly, in which the practice of embalming or funeral directing is to be rendered in consideration for the funeral establishment, licensed person, or an agent, assistant, or representative of the establishment or licensed person, being designated as beneficiary in an insurance policy or certificate. This subdivision does not govern or limit the authority of a personal representative, trustee, or other person that has a fiduciary relationship with the deceased.

(q) Failure to comply with part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832.

(r) Failure to comply with the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(2) The department, in consultation with the director of public health, shall promulgate rules to prescribe training standards for licensees and nonlicensees that handle medical waste in a funeral establishment.

(3) A licensee that owns or operates a funeral establishment shall train its employees in accordance with the rules promulgated under subsection (2).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 15, Eff. May 28, 1990;—Am. 2006, Act 300, Imd. Eff. July 20, 2006;—Am. 2020, Act 265, Eff. Mar. 24, 2021.

Popular name: Act 299

339.1811 Purchase of vault or similar receptacle as condition to burial prohibited; discrimination; right to require vault not impaired.

Sec. 1811. (1) The purchase of a vault or similar receptacle designed or intended to enclose or receive a casket, coffin, or other similar container from a particular individual, partnership, association, or corporation shall not be required as a condition to burial in a cemetery in this state. There shall not be a discrimination by price, burial fee, or otherwise by reason of a failure to purchase the vault or similar receptacle from or under the direction of the cemetery or the owner of the cemetery.

(2) This section shall not limit the right of a cemetery to require the use of a vault in a burial in the cemetery.

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

Popular name: Act 299

339.1812 Owning or conducting cemetery or burial ground and owning or maintaining funeral establishment prohibited; exception; owning or conducting funeral establishment on property owned or leased by cemetery prohibited; owner of private burial ground owning or maintaining funeral establishment.

Sec. 1812. (1) An individual, partnership, association, municipal corporation, body politic, or corporation

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which owns or conducts, either directly or indirectly, a cemetery or burial ground in this state shall not own, manage, supervise, operate, or maintain, either directly or indirectly, a funeral establishment, or permit an officer, agent, or employee to own or maintain a funeral establishment. This subsection shall not apply to an elected official of a city, village, township, or county who serves as an ex officio member of a local cemetery board as a result of holding that office.

(2) An individual, partnership, association, municipal corporation, body politic, or corporation which owns or conducts a cemetery in this state shall not allow a funeral establishment to be owned or conducted on property owned or leased by the cemetery and used for cemetery purposes or designated as a cemetery.

(3) This section shall not prohibit the owner of a private burial ground used for the interment of the owner's family or the owner's descendents to own or maintain a funeral establishment under this article.

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

Popular name: Act 299

ARTICLE 19

339.1901-339.1910 Repealed. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Compiler's note: The repealed sections pertained to nursing home administrator's license.

Popular name: Act 299

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

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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 note: 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

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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 professional surveyor; licensing requirements.

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

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

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

(c) Be of good moral character.

(d) Provide documentation of professional experience in architectural work satisfactory to the board.

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

(a) Provide documentation of at least 8 years of professional experience in engineering work acceptable to the board of professional engineers, including not more than 5 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) 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.

(d) Be of good moral character.

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

(a) Provide documentation of at least 8 years of professional experience in professional surveying satisfactory to the board of professional surveyors, including not more than 5 years of education.

(b) Provide evidence of completion of a degree in professional surveying or a related degree that included professional surveying courses acceptable to the board of professional surveyors.

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

(d) 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 ;—Am. 2009, Act 143, Imd. Eff. Nov. 10, 2009;—Am. 2016, Act 435, Eff. Apr. 4, 2017.

Popular name: Act 299

339.2005 Repealed. 2016, Act 435, Eff. Apr. 4, 2017.

Compiler's note: The repealed section pertained to examination requirements for architect, professional engineer, and professional surveyor licensure.

339.2006 Maintenance of court action; allegation and proof of licensure; failure to make restitution.

Sec. 2006. (1) A person, a qualifying officer, a licensee, or an agent for a licensee under this article 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 licensure is required under this article without alleging and proving that the person, qualifying officer, licensee, or agent was licensed under this article during the performance of the act or contract. A person who has utilized the services of a person engaging in or attempting to engage in an occupation regulated under this article or using a title designated by this article without being licensed by the department may bring an action in a court of competent jurisdiction, or offer as a counterclaim to an action brought by an unlicensed person, for a refund of compensation after deducting the value of the goods or services retained by the person.

(2) If the department suspends a license for failure to make restitution, in whole or in part, the restitution in the form of repair or remedial corrective work shall be performed by a person appropriately licensed under this article and shall be paid for by the licensee.

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History: Add. 2008, Act 319, Eff. Mar. 31, 2009.

Compiler's note: Former MCL 339.2006, which pertained to application for licensure, was repealed by Act 463 of 1988, Eff. Sept. 1, 1989

Popular name: Act 299

339.2007 Seal; signature.

Sec. 2007. (1) When he or she is licensed, a licensee shall obtain or adopt a seal, in a form authorized by the appropriate board, that bears the licensee's name and the legend indicating either "licensed architect", "licensed professional engineer", or "licensed professional surveyor". However, a seal that exists on September 1, 1992 and bears the legend "registered architect", "registered professional engineer", "registered land surveyor", or "licensed land surveyor" is acceptable if a seal is required under state law.

(2) A licensee shall apply his or her seal and signature to a plan, specification, plat, or report that is issued by the licensee and filed with a public authority. If the license of the licensee named on a document has expired or is suspended or revoked, a person shall not apply the licensee's seal or signature to the document unless the license is renewed, reinstated, or reissued.

(3) As used in this section and section 2008:

(a) "Electronic seal" means a seal created by electronic or optical means and affixed electronically to a document or electronic document.

(b) "Electronic signature" means a signature created by electronic or optical means and affixed electronically to a document or electronic document with intent to sign the document.

(c) "Seal" includes an electronic seal.

(d) "Signature" includes an electronic signature.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 103, Eff. Sept. 1, 1992;—Am. 2013, Act 178, Eff. Feb. 25, 2014.

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, printed, or electronic 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 that is not prepared by the licensee or under the supervision of the licensee as the person in responsible charge.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2013, Act 178, Eff. Feb. 25, 2014.

Popular name: Act 299

339.2009 Renewal of license; continuing education.

Sec. 2009. (1) Beginning the license cycle after the effective date of the rules promulgated under subsection (2), a demonstration of the completion of a program of continuing education shall be required for renewal of a license issued under this article.

(2) The department shall, by rule, establish a program of continuing education for all licensees under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2010, Act 324, Imd. Eff. Dec. 21, 2010.

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 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

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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

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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

ARTICLE 21

339.2101 Repealed. 2018, Act 116, Eff. July 25, 2018.

Compiler's note: The repealed section pertained to definitions.

Popular name: Act 299

339.2102 Repealed. 2018, Act 116, Eff. July 25, 2018.

Compiler's note: The repealed section pertained to creation of board of foresters and qualifications of members.

Popular name: Act 299

339.2103 Repealed. 2018, Act 116, Eff. July 25, 2018.

Compiler's note: The repealed section pertained to certificate of registration as forester.

Popular name: Act 299

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

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

Popular name: Act 299

339.2105 Repealed. 2018, Act 116, Eff. July 25, 2018.

Compiler's note: The repealed section pertained to indorsement of plan, map, specification, or report by registered forester.

Popular name: Act 299

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

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

Popular name: Act 299

339.2107 Repealed. 2018, Act 116, Eff. July 25, 2018.

Compiler's note: The repealed section pertained to registration of applicant who is authorized in another state or country.

Popular name: Act 299

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339.2108 Repealed. 2018 Act 116, Eff. July 25, 2018.

Compiler's note: The repealed section pertained to use of title "registered forester."

Popular name: Act 299

ARTICLE 22

339.2201 Definitions.

Sec. 2201. As used in this article:

(a) "Landscape architect" means a person qualified to engage in the practice of landscape architecture as provided in this article.

(b) "Practice of landscape architecture" means all of the following:

(*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;—Am. 2008, Act 490, Eff. May 13, 2009.

Compiler's note: 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); scope of article.

Sec. 2202. (1) This article does not prohibit a licensed 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 does not authorize a landscape architect to engage in the practice of architecture, engineering, or land surveying as defined in article 20.

(3) The licensure requirement of this article does not prohibit a person from performing or offering services as a landscape designer, landscape gardener, landscape contractor, or landscape nursery operator as long as that person does not use the term "landscape architect".

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2008, Act 490, Eff. May 13, 2009.

Popular name: Act 299

339.2203 Appointment of ad hoc committees by director; purpose; number of members; service of committees during processing of rules; recommendations and suggested revisions.

Sec. 2203. (1) The director shall appoint 1 or more ad hoc committees to assist the director and the department in adopting rules regarding the setting of standards for continuing education and continuing competency courses and programs, providing for exceptions to the licensure standards in extraordinary cases, and establishing specific license sanction recommendations for certain violations.

(2) The committees shall consist of as many members as the director considers necessary but shall include at least a majority of members that are licensed under this article.

(3) The committees appointed under this section shall serve during the processing of the rules and may make recommendations and suggested revisions regarding the content of the rules.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2008, Act 490, Eff. May 13, 2009.

Compiler's note: 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 licensure as landscape architect; qualifications.

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

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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;—Am. 2008, Act 490, Eff. May 13, 2009.

Popular name: Act 299

339.2205 Completion of requirements for licensure; demonstration of continuing professional competence.

Sec. 2205. (1) 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.

(2) A demonstration of continuing professional competence shall be required for renewal of a license as determined by the department and provided for by rule of the director.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2008, Act 490, Eff. May 13, 2009.

Popular name: Act 299

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

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

Popular name: Act 299

339.2208 Licensure on individual basis.

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

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2008, Act 490, Eff. May 13, 2009.

Popular name: Act 299

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

Sec. 2209. The department may issue a license without examination to an applicant who is legally registered, licensed, or regulated as a landscape architect in any other state or country whose requirements for registration, licensure, or other regulation 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;—Am. 2008, Act 490, Eff. May 13, 2009.

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 number of his or her license 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 license 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;—Am. 2008, Act 490, Eff. May 13, 2009.

Popular name: Act 299

339.2211 Using or advertising certain titles or descriptions.

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

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2008, Act 490, Eff. May 13, 2009.

Popular name: Act 299

ARTICLE 23

339.2301-339.2310 Repealed. 1988, Act 463, Eff. Sept. 1, 1989;—Repealed. 2014, Act 154, Imd. Eff. June 11, 2014.

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Compiler's note: The repealed sections pertained to creation of board of professional community planners and registration requirements for professional community planners.

MCL 339.2308 was repealed by Act 463 of 1988, Eff. Sept. 1, 1989. MCL 339.2301 to 339.2310 was repealed by Act 154 of 2014, Imd. Eff. June 11, 2014.

Popular name: Act 299

ARTICLE 24

339.2401 Definitions.

Sec. 2401. As used in this article:

(a) "Residential builder" means any of the following:

(*i*) A person engaged in the construction of a residential structure that, 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 addition to, subtraction from, improvement, wrecking of, or demolition of, a residential structure.

(*ii*) A person that manufactures, assembles, constructs, deals in, or distributes a residential structure that is prefabricated, preassembled, precut, packaged, or shell housing.

(*iii*) A person that erects a residential structure except for the person's own use and occupancy on the person's property.

(b) "Residential maintenance and alteration contractor" means a person that, for a fixed sum, price, fee, percentage, valuable consideration, or other compensation, other than wages for personal labor only, does any of the following:

(*i*) Undertakes with another for the repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure, or building of a garage, or laying of concrete on residential property.

(*ii*) Engages in the purchase, substantial rehabilitation or improvement, and resale of a residential structure or property and engages in that activity on the same structure more than twice in 1 calendar year, except in the following instances:

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

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

(C) 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 1 or both of the following:

(*i*) A detached 1- or 2-family dwelling and all related facilities appurtenant to that dwelling, used or intended to be used as an adjunct of residential occupancy.

(*ii*) A townhouse of not more than 3 stories above the grade plane in height with a separate means of egress and all related facilities appurtenant to that townhouse, 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 an individual working for a licensed residential builder or residential maintenance and alteration contractor who makes sales that are occasional and incidental to the individual'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 as consideration for the performance of personal labor on the structure by an individual 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 described in subdivision (a) or (b).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1991, Act 166, Imd. Eff. Dec. 19, 1991;—Am. 2020, Act 341, Imd. Eff. Dec. 30, 2020.

Compiler's note: 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.

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Enacting section 1 of Act 341 of 2020 provides:

"Enacting section 1. Section 2401 of the occupational code, 1980 PA 299, MCL 339.2401, as amended by this amendatory act, applies retroactively to January 1, 2019."

Popular name: Act 299

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

Sec. 2402. A residential builders' and maintenance and alteration contractors' board is created. The board shall consist of 9 individuals, as follows:

(a) Four individuals who are licensed residential builders.

(b) Two individuals who are licensed maintenance and alteration contractors.

(c) Three individuals representing the general public, at least 1 of whom is registered under article 10 of the skilled trades regulation act, MCL 339.6001 to 339.6023.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2007, Act 157, Eff. June 1, 2008;—Am. 2016, Act 412, Eff. Apr. 4, 2017.

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 a license under this article, 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 who is acting within the scope of that office.

(e) A person other than the salesperson that engages solely in the business of performing work and services under contract with a residential builder or a residential maintenance and alteration contractor that is licensed under this article.

(f) A person that is working on 1 undertaking or project by 1 or more contracts, if the aggregate contract price for the labor, material, and any other items for the undertaking or project is less than $600.00. The exemption described in this subdivision 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 that is licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739. The exemption described in this subdivision applies only to the electrical installation, electrical maintenance, or electrical repair work that is performed by the electrical contractor.

(h) A plumbing contractor that is licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133. The exemption described in this subdivision applies only to plumbing installation, plumbing maintenance, or plumbing repair work that is performed by the plumbing contractor.

(i) A mechanical contractor that is licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819. The exemption described in this subdivision applies only to mechanical installation, mechanical maintenance, or mechanical repair work that is 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;—Am. 2016, Act 412, Eff. Apr. 4, 2017.

Popular name: Act 299

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

Sec. 2404. (1) Except as provided in section 2404c, the department may require an applicant, a licensee, or each partner, trustee, director, officer, member, or shareholder of an applicant or licensee to submit evidence of good moral character. Before the department issues a license, an applicant shall submit a copy of his or her operator's license or state personal identification card to the department. The department may use the license or card only for proof of identity of the applicant.

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(2) Except as provided in section 2404c, the department shall require that an applicant for a license under this article pass an examination that establishes 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) Except as provided in section 2404c, the department may issue a residential maintenance and alteration contractor's license to an individual who applies for the license and who qualifies for the license by passing the examination. A license authorizes 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 includes the following crafts and trades: carpentry; concrete; swimming pool installation; waterproofing a basement; excavation; insulation work; masonry work; roofing; siding and gutters; screen or storm sash installation; tile and marble work; and house wrecking. A license shall specify the particular craft or trade for which the licensee is qualified. This subsection does not prohibit a specialty contractor from taking and executing a contract involving the performance of the craft or trade for which the contractor holds a license and 1 or more other crafts or trades if the performance of the work in the other craft or trade is incidental and supplemental to the performance of work in the craft or trade 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 in this state, the department shall issue a branch office license to the builder or contractor for each place of business maintained by the builder or contractor.

(5) The department shall issue the license of a residential builder and residential maintenance and alteration contractor for a period of 3 years in duration.

(6) An applicant for renewal of a residential builder or maintenance and alteration contractor license shall state to the department that he or she has a current copy of the Michigan residential code and meets the appropriate requirements regarding continuing competency described in this article or rules promulgated under this article.

(7) A licensee shall maintain documentation, for at least 5 years, of activities that meet the continuing competency requirements 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;—Am. 2010, Act 151, Imd. Eff. Aug. 23, 2010;—Am. 2014, Act 176, Imd. Eff. June 17, 2014;—Am. 2018, Act 527, Eff. Mar. 28, 2019.

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; disciplinary action; continuing competency requirements; approved courses; subject matter; rules; alternate forms of continuing competency; department audit; application for inactive status; designation of licensee as inactive; exemption from requirements in subsection (1); affidavit signed by commanding officer, supervisor, or military superior; retaking examination.

Sec. 2404b. (1) Beginning June 1, 2008, an applicant for initial licensure either as a residential builder or as a residential maintenance and alteration contractor must successfully complete the prelicensure course of study requirements under this subsection to obtain a license unless he or she is exempt from those requirements under this section. All of the following apply for purposes of this subsection:

(a) If an individual who holds a residential builder or a residential maintenance and alteration contractor license, or an individual who held a license as a qualifying officer of a licensed residential builder or residential maintenance and alteration contractor, on June 1, 2008 is renewing a license, he or she is exempt from the requirement of successfully completing prelicensure courses described in this subsection.

(b) If an individual is applying for a license or relicensure as a residential builder or residential maintenance and alteration contractor, he or she is exempt from the requirement of successfully completing prelicensure courses described in this subsection if all of the following are met:

(*i*) His or her application is submitted before the expiration of the 18-month period beginning on September 16, 2014. This subdivision does not apply to applications that are submitted after that 18-month

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period.

(*ii*) He or she held an individual license as a residential builder or residential maintenance and alteration contractor, or held a license as a qualifying officer of a licensed residential builder or residential maintenance and alteration contractor, at any time within the 9-year period preceding his or her application.

(c) Unless he or she is exempt under subdivision (a) or (b), an applicant must not receive an initial license under this act unless he or she successfully completed 60 hours of approved prelicensure courses that include at least 6 hours of courses in each of the following areas of competency:

(*i*) Business management, estimating, and job costing.

(*ii*) Design and building science.

(*iii*) Contracts, liability, and risk management.

(*iv*) Marketing and sales.

(*v*) Project management and scheduling.

(*vi*) The current Michigan residential code.

(*vii*) Construction safety standards promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) All of the following apply to an individual license under this article, as applicable:

(a) Subject to subdivision (b), if the individual licensee obtained his or her initial license as a residential builder or a residential maintenance and alteration contractor on or after January 1, 2009, he or she must successfully complete at least 21 hours of activities that demonstrate continuing competence in each 3-year license cycle, including both of the following:

(*i*) At least 3 hours of activities that demonstrate continuing competency in each calendar year, during the first 6 calendar years of licensure.

(*ii*) At least 3 hours of 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.

(b) If an individual licensee described in subdivision (a) was exempt from the prelicensure course requirements of subsection (1) under subsection (1)(b) when he or she obtained his or her initial license as a residential builder or residential maintenance and alteration contractor, the hours of activities that he or she must complete in the first year of his or her first 3-year license cycle under subdivision (a) must include successful completion of at least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues described in this subsection.

(c) If the licensee was initially licensed as a licensed residential builder or residential maintenance and alteration contractor, or held a license as a qualifying officer of a licensed residential builder or residential maintenance and alteration contractor, before January 1, 2009, he or she has held a license for not more than two 3-year license cycles, and the department has not taken disciplinary action against him or her for a violation of this act or a rule promulgated under this act, he or she must successfully complete at least 3 hours of activities that demonstrate continuing competency in each 3-year license cycle that includes at least 1 hour of codes, 1 hour of safety, and 1 hour of legal issues described in this subsection.

(d) If the licensee has held a license for more than two 3-year license cycles, and the department has not taken disciplinary action against him or her for a violation of this act or a rule promulgated under this act, he or she must successfully complete at least 3 hours of activities demonstrating continuing competency in each license cycle that includes 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in this subsection.

(3) In addition to the requirements of subsection (2), if the department has taken disciplinary action against a licensee for a violation of this act or a rule promulgated under this act, the licensee must successfully complete, during the next complete license cycle, at least 3 and not more than 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 the continuing competency must include 1 hour of codes, 1 hour of safety, and 1 hour of legal issues as described in subsection (2).

(4) Any construction code update courses approved by the bureau of construction codes and any fire safety or workplace safety courses approved or sponsored by the department are also considered appropriate for fulfilling the continuing competency requirements of this section. 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 section.

(5) The subject matter of the prelicensure and continuing competency activities required under this section may be offered by a high school, an intermediate school district, a community college, a university, the bureau of construction codes, the Michigan occupational safety and health administration, a trade association, or any other proprietary school that is licensed by the department.

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(6) 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 trade journals or regional magazines as an expert in the field. The alternate forms must be designed to maintain and improve the licensee's ability to perform the occupation with competence and must prescribe proofs that are necessary to demonstrate that the licensee has fulfilled the requirements of continuing competency.

(7) Each licensee may select approved courses in his or her subject matter area or specialty. A licensee's service as a lecturer or discussion leader in an approved course must count toward his or her continuing competency requirements under this section. Alternate forms of continuing competency may be earned and documented as promulgated in rules by the department.

(8) 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 results in the investigation of a complaint initiated by the department, and the licensee is subject to the penalties prescribed in this act.

(9) Before September 16, 2014, a licensed 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. If a completed application is submitted, the department shall designate the licensee as inactive and note that status on records available to the public. A licensee who is 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. If the department activates an inactive license, the licensee must complete at least 1 credit hour of activities that demonstrate continuing competency for that calendar year.

(10) An individual licensee who applied for and was designated inactive under subsection (9) before September 16, 2014 may remain in inactive status after that date by complying with the requirements of subsection (9). A licensee who remains in inactive status after September 16, 2014 is exempt from the continuing competency requirements of this section while he or she remains in inactive status. A licensee may activate his or her license by submitting an application to the department requesting activation of the license. If his or her license is activated, the licensee must complete at least 1 credit hour of activities that demonstrate continuing competency for that calendar year.

(11) Subject to subsection (13), an applicant for initial licensure as a residential builder or residential maintenance and alteration contractor is exempt from the requirements of subsection (1) if he or she meets all of the following:

(a) Served in the armed forces.

(b) While serving in the armed forces, was engaged in the erection, construction, replacement, repair, alteration, or demolition of buildings or other structures.

(c) Was separated from service in the armed forces, and provides to the department a form DD214, form DD215, or any other form that is satisfactory to the department that demonstrates that he or she was separated from that service, with an honorable character of service or under honorable conditions (general) character of service.

(d) Has, and provides with his or her application an affidavit signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that he or she has, entry-level experience in or basic knowledge of each of the areas of competency described in subsection (1)(c).

(12) If an applicant who otherwise meets the requirements of subsection (11) does not have entry-level experience in or basic knowledge of each of the areas of competency described in subsection (1)(c), he or she may provide with his or her application an affidavit signed by a commanding officer, supervisor, or military superior with direct knowledge of the applicant's service that states in which of those areas of competency the applicant has entry-level experience or basic knowledge, and the department may in its discretion grant the applicant credit toward the 60-hour prelicensure education requirement of subsection (1) based on that

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experience or knowledge.

(13) If an applicant for initial licensure as a residential builder or residential maintenance and alteration contractor described in subsection (11) does not pass the examination for that license the first time he or she takes the examination, that applicant may not retake the examination until he or she successfully completes a prelicensure course of study described in subsection (1).

History: Add. 2007, Act 157, Eff. June 1, 2008;—Am. 2013, Act 169, Eff. Feb. 12, 2014;—Am. 2014, Act 175, Eff. Sept. 16, 2014;—Am. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299

339.2404c Individual denied license because of financial instability.

Sec. 2404c. All of the following apply to an individual who is applying for a license or relicensure as a residential builder or residential maintenance and alteration contractor, who was a qualifying officer on December 21, 2007, and who was subsequently denied an individual license because of financial instability:

(a) The department shall determine whether the applicant should receive a license under this article and what requirements described in section 2404 the applicant must meet to qualify for that license.

(b) In making its determination under subdivision (a), the department shall consider the information it receives under section 2404(1) concerning the good moral character of the applicant and other persons described in section 2404(1), shall determine whether the applicant is required to pass an examination under section 2404(2) or (3) or 2405(1), and may require that the applicant meet other requirements to qualify for a license.

(c) The applicant shall certify that he or she successfully completed at least 3 hours of activities that demonstrate continuing competency, that include 1 hour of codes, 1 hour of safety, and 1 hour of legal issues described in section 2404b(2), in the 12 months immediately preceding the date of application.

History: Add. 2014, Act 176, Imd. Eff. June 17, 2014.

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) Subject to section 2404c, if a corporation, partnership, association, limited liability company, or other entity applies for a license, the applicant shall designate 1 of its officers, partners, or members or its managing agent as a qualifying officer. A qualifying officer who takes and passes the examination and meets all other requirements of this article is entitled to a license to act for the corporation, partnership, association, limited liability company, or other entity. A qualifying officer shall also obtain and maintain a license under this article as an individual. A qualifying officer is 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. The department shall not issue a license to a corporation, partnership, association, limited liability company, or other entity unless each partner, trustee, director, officer, or member, and each person that exercises control over the entity, 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 department shall include the individual's name and license number on any license issued to the individual as a qualifying officer. If the department issues a license under this subsection to an officer, partner, member, or managing agent, whether or not he or she is the qualifying officer, that individual shall provide a copy of his or her operator's license or state personal identification card to the department. The department shall use the license or card 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 is suspended when a license or license application of a qualifying officer, partner, trustee, director, officer, or member, or a person that exercises 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 is removed.

(3) If an individual's license under this article is suspended, revoked, or denied by the board, any other license issued or applied for under this article is suspended, revoked, or denied. If the license of a corporation, partnership, association, limited liability company, or other entity is suspended, revoked, or denied, any other license issued to or applied for by the qualifying officer of that entity is suspended, revoked, or denied.

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

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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;—Am. 2014, Act 176, Imd. Eff. June 17, 2014.

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 note: The repealed section pertained to disposition of license fee after failure to pass examination.

Popular name: Act 299

339.2409 Reporting certain changes.

Sec. 2409. 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;—Am. 2010, Act 151, Imd. Eff. Aug. 23, 2010.

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; violations; review; 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 as follows:

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

(*i*) Completion.

(*ii*) Occupancy.

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(*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 is 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 that 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 this state or of a political subdivision of this 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 any finance or other charge arising out of or incidental to the agreement if the agreement involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure, building of a garage, laying of concrete on residential property, or manufacture, assembly, construction, sale, or distribution of a residential structure that 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, 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 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.

(4) 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

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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. If the department does not send a copy of the verified complaint within 30 days after receipt of the building inspection report, the department shall not assess a fine against the licensee under article 6, but the department may pursue 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 if the licensee has contractually provided 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 if 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).

(g) If 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.

(5) If the licensee or respondent fails to appear or participate in 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.

(6) 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;—Am. 2010, Act 151, Imd. Eff. Aug. 23, 2010 ;—Am. 2020, Act 341, Imd. Eff. Dec. 30, 2020.

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.

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(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.

Popular name: Act 299

ARTICLE 25

339.2501 Definitions.

Sec. 2501. As used in this article:

(a) "Associate broker" or "associate real estate broker" means an individual who meets the requirements for licensure as a real estate broker under this article and who is licensed as an associate real estate broker under section 2505 to provide real estate brokerage services as an employee or independent contractor of a real estate broker.

(b) "Business entity" means a person described in section 105(5)(b) or (c), except a sole proprietorship.

(c) "Classroom course" means an educational course of instruction that is provided at either of the following:

(*i*) A physical location where instruction is offered and students and an instructor are present.

(*ii*) A location where a student receives instruction provided by distance learning.

(d) "Clock hour" means either of the following:

(*i*) For a classroom course at a location described in subdivision (c)(*i*), a period of 50 to 60 minutes of actual classroom instruction, not including outside assignments and reading.

(*ii*) For a classroom course at a location described in subdivision (c)(*ii*), the period required for a student to process the amount of material provided in 50 minutes of distance learning instruction.

(e) "Control person" means an individual who is a sole proprietor, is a partner in a partnership or limited partnership, is an officer, director, or shareholder in a corporation, is a member or manager in a limited liability company, or holds a responsible position in any other form of business entity authorized under the laws of this state or the state in which the entity is organized or formed.

(f) "Distance learning" means the technology and educational process used to provide instruction to a student when the student and the instructor are not necessarily physically present at the same time or place. The term includes, but is not limited to, instruction provided through an interactive classroom, computer conferencing, or an interactive computer system.

(g) "Employ" or "employment" means the relationship between a real estate broker and an associate real estate 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 does not relieve the real estate broker of the responsibility to supervise acts of the licensee that are regulated under this article.

(h) "Independent contractor relationship" means a relationship between a real estate broker and an associate real estate 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 real estate broker or real estate salesperson as an employee for federal and state income tax purposes.

(*ii*) At least 75% of the annual compensation paid by the real estate broker to the associate real estate broker or real estate salesperson is from commissions from the sale of real estate.

(i) "License cycle" means the term of a license issued under this article.

(j) "Limited service agreement" means a written service provision agreement by which a 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.

(k) "Negotiate the mortgage of real estate" means engaging in activity in connection with a mortgage that is not regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to MCL 493.81, or the mortgage loan originator licensing act, 2009 PA 75, MCL 493.131 to 493.171.

(*l*) A "nonprincipal" of a real estate broker means a control person who is licensed as an associate real estate broker under this article, but is not designated as a principal under section 2505(1).

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(m) "Place of business" means a physical location that a real estate broker, by advertisement, signage, or otherwise, represents to the public is a place where clients and customers may consult or do business with a licensee.

(n) "Pocket card" means the pocket card that contains information about the license that the department provides under section 2506 when it issues a license under this article.

(o) "Prelicensure course" means a course that is represented to the public as fulfilling, in whole or in part, the requirements of section 2504.

(p) A "principal" of a real estate broker means a control person who is licensed as an associate real estate broker and is designated as a principal under section 2505(1).

(q) "Professional designation" means a certification from a real estate professional association that demonstrates that an individual has attained 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 awarded by the certifying entity.

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

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

(t) "Property management employment contract" means a written agreement that is entered into between a real estate broker and client concerning the real estate broker's employment as a property manager for the client; that describes the real estate broker's duties, responsibilities, and activities as a property manager; and that describes the handling, management, safekeeping, investment, disbursement, and use of property management money, funds, and accounts.

(u) "Real estate broker" means an individual or business entity that, 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 of, lists or offers or attempts to list, or negotiates the purchase, sale, or exchange of real estate; that negotiates the mortgage of real estate; that negotiates for the construction of a building on real estate; that 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; that engages in property management as a whole or partial vocation; that 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 that, as owner or otherwise, engages in the sale of real estate as a principal vocation.

(v) "Real estate salesperson" means an individual who for compensation or valuable consideration is employed either directly or indirectly by a licensed real estate broker to sell or offer to sell, buy or offer to buy, provide or offer to provide market analyses of, list or offer or attempt to list, or negotiate the purchase, sale, or exchange of real estate; to negotiate the mortgage of real estate; to negotiate for the construction of a building on real estate, or to lease or offer to lease, or 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.

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

(x) "Sponsor" means a person that represents to the public that the courses it conducts for purposes of this article fulfill the requirements of section 2504a for continuing education.

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;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Compiler's note: 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;

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license; term; renewal; relicensure; licensure following revocation.

Sec. 2502a. (1) The department by rule shall establish the term of the license cycle for a license for a real estate broker, associate real estate broker, and real estate salesperson granted under this article. The department shall not issue a license to an individual who is under the age of 18 years.

(2) The department shall renew a license for a real estate broker, associate real estate broker, or real estate salesperson if the department receives an application for renewal on a form prescribed by the department, and payment of the appropriate fees, within the time period described in section 411(1) or (2), and the applicable requirements of section 2504a are met.

(3) The department may relicense a business entity that fails to renew a real estate broker's license issued under this article within the time period described in subsection (2) if the business entity pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming license period and designates a principal under section 2505(1)(d).

(4) The department may relicense without examination an individual who fails to renew a license issued under this article within the time period described in subsection (2) if all of the following are met:

(a) The individual applies within 3 years after the expiration date of the person's last license.

(b) The individual pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period.

(c) The individual completes 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last license, on the topics described in section 2504a(1).

(5) The department may relicense an individual who failed to renew a real estate broker or associate broker license within 3 years after the expiration date of his or her last real estate broker or associate broker license if he or she pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period and submits proof that he or she meets any of the following:

(a) Has completed a total of 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last real estate broker or associate real estate broker license, on the topics described in section 2504a(1).

(b) Has completed 90 clock hours of prelicensure courses described in section 2504(3) in the 12-month period preceding the date of the application.

(c) Has passed the examination required for a real estate broker license under section 2505(5).

(6) The department may relicense an individual who failed to renew a real estate salesperson license within 3 years after the expiration date of his or her last license if he or she pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period and submits proof that he or she meets any of the following:

(a) Has completed a total of 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last license, on the topics described in section 2504a(1).

(b) Has completed 40 clock hours of prelicensure courses described in section 2504(3) in the 12-month period preceding the date of the application.

(c) Has passed the examination required for a real estate salesperson license under section 2505(5).

(7) An individual whose license is revoked shall not apply for a new license for at least 3 years after the service of the final order of the revocation. To be considered for a license following a revocation, an applicant shall meet all educational and examination requirements in effect at the time of application, and the applicant shall not receive credit for education or experience acquired, or examinations passed, before the revocation.

History: Add. 2002, Act 611, Imd. Eff. Dec. 20, 2002;—Am. 2014, Act 106, Eff. Jan. 1, 2015;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2502b Owner of real estate engaging in sale of real estate as principal vocation; license as real estate broker required.

Sec. 2502b. (1) Unless the owner engages the services of a real estate broker in connection with those sales, an individual who is the owner of real estate must obtain a license as a real estate broker to engage in the sale of that real estate as a principal vocation. For purposes of this subsection, each of the following is considered engaging in the sale of real estate as a principal vocation:

(a) Engaging in more than 5 real estate sales in any 12-month period.

(b) Representing to the public that he or she is principally engaged in the sale of real estate.

(c) Devoting over 50% of his or her working time, or more than 15 hours per week in any 6-month period, to the sale of real estate.

(d) If he or she is a real estate salesperson, a sale of real estate other than his or her principal residence.

(2) A sale of real estate that is owned by, or under option to, a real estate broker or associate real estate

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broker is subject to the provisions of this article.

(3) If a licensee is selling property that is owned by the licensee or in which the licensee has an interest, the licensee shall reveal the facts of the licensee's ownership or interest and the licensee's licensure to the purchaser, in writing, before an offer to purchase is signed. A licensee shall provide written proof of this disclosure that is satisfactory to the department on request by the department.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2503 Exemptions.

Sec. 2503. (1) This article does not apply to a person that, as owner, sells or offers for sale a detached, single family dwelling, duplex, triplex, or quadruplex, that has never been occupied and that was built by the person while licensed under article 24. This article does not apply to an owner or lessor, an attorney-in-fact acting under a duly executed and recorded power of attorney from the owner or lessor, or a person appointed by a court, that 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 does not apply to an attorney-at-law who is rendering services as an attorney-at-law; to a receiver, trustee in bankruptcy, administrator, executor, a person selling real estate under order of a court; or to a trustee selling under a deed of trust, unless the trustee makes repeated or successive sales of real estate not through a licensed real estate broker.

(3) This article does not apply to a person that is regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and that does not perform any other act requiring a license as a real estate broker, associate broker, or real estate salesperson.

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;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2504 Real estate broker's license; prelicensure classroom courses; suspension or revocation of approval; prohibited representations; conduct of prelicensure course; violation of subsection (4); penalties; real estate clinic, meeting, course, or institute; sponsoring studies, research, and programs; contract with statewide real estate association.

Sec. 2504. (1) Both of the following must be met before an applicant receives a real estate broker's license under this article:

(a) The applicant must submit an application under section 2505.

(b) The applicant, if the applicant is an individual, or the individual designated as the principal of the applicant under section 2505 if the applicant is a business entity, must successfully complete at least 90 clock hours of approved prelicensure classroom courses in real estate. All of the following apply to these 90 hours of instruction:

(*i*) At least 9 clock hours must be instruction on civil rights law and fair housing law.

(*ii*) The 90 hours are in addition to the hours required to obtain a real estate salesperson's license.

(*iii*) The applicant must complete the 90 hours within the 36-month period preceding the date of the application unless the applicant has held an active license as a real estate salesperson for that period.

(*iv*) The department by rule may determine that possession of 1 or more of the following credentials is the equivalent to completing prelicensure classroom courses described in this subdivision, and the appropriate number of clock hours of credit that an applicant or principal of an applicant, as applicable, receives for possessing each credential:

(A) A law degree.

(B) A bachelor's degree in business or finance from a degree- or certificate-granting public or independent nonprofit college or university, junior college, or community college.

(C) A master's degree in business or finance from a degree- or certificate-granting public or independent nonprofit college or university, junior college, or community college.

(D) Any other educational credential that the department, in consultation with the board, determines is the equivalent to completing prelicensure classroom courses described in this subdivision.

(2) Before he or she is permitted to take the real estate salesperson's examination, an applicant must show proof that he or she has successfully completed at least 40 clock hours of approved prelicensure classroom courses in principles of real estate, including at least 4 clock hours of instruction on civil rights law and equal opportunity in housing. The applicant must complete the 40 hours of prelicensure education within the

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36-month period preceding the date of the application.

(3) For purposes of subsections (1) and (2), an approved prelicensure course is a classroom course that meets all of the following:

(a) Meets criteria established by the department. The department may promulgate rules to establish these criteria.

(b) Covers 1 or more of the following topics:

(*i*) Real estate license law and related regulatory laws.

(*ii*) Real property law, including property interests and restrictions.

(*iii*) Federal, state, and local tax laws affecting real property.

(*iv*) Conveyances, including contracts, deeds, and leases.

(*v*) Financing, including mortgages, land contracts, foreclosure, and limits on lending procedures and interest rates.

(*vi*) Appraisal of real property.

(*vii*) Design and construction.

(*viii*) Marketing, exchanging, and counseling.

(*ix*) The law of agency.

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

(*xi*) Real estate securities and syndications.

(*xii*) Investments, including property management.

(4) A person that offers or conducts a prelicensure course or courses of study that are represented to meet the educational requirements of this section shall first obtain approval from the department and shall comply with the rules of the department concerning curriculum, instructor qualification, grading system, and other related matters. A course shall be designed to be taught for at least 1 clock hour, not including time spent on breaks, meals, or other unrelated activities. The department may suspend or revoke the approval of a person approved under this subsection for a violation of this article or of the rules promulgated under this article. A person that offers or conducts 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 under this subsection is a recommendation or endorsement of the person to which it is issued or of a course of instruction given by it. A prelicensure course approved under this section shall be conducted by 1 of the following:

(a) A local public school district.

(b) A community college.

(c) An institution of higher education authorized to grant degrees.

(d) Any other education provider approved by the department under this subsection, if that provider meets any requirements for prelicensure education providers established by the department by rule, in consultation with the board.

(5) A person that violates subsection (4) in operating a school that provides 1 or more courses described in this section is subject to the penalties set forth in article 6.

(6) 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 in 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.

(7) For purposes of subsection (3)(b), the department may contract under section 210 with a statewide real estate association that has a membership representing more than 18,000 licensees to do any of the following:

(a) Review prelicensure courses and make recommendations to the department of whether the department should approve a prelicensure course, based on criteria established by the department.

(b) Review prelicensure courses to determine whether the subject matter of the courses is relevant to the practice of real estate.

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;—Am. 2014, Act 106, Eff. Jan. 1, 2015;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

Administrative rules: R 339.22101 et seq. of the Michigan Administrative Code.

339.2504a Continuing education.

Sec. 2504a. (1) Subject to subsection (7), a licensee must successfully complete at least the following number of hours of eligible continuing education courses in each license cycle:

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(a) Beginning with the license cycle after the effective date of the rules promulgated under subsection (2)(e), the number of hours determined by the department by rule.

(b) In each license cycle before the license cycle described in subdivision (a), 18 clock hours.

(2) All of the following apply to the continuing education requirement described in subsection (1):

(a) In completing the appropriate number of hours of eligible continuing education courses, a licensee must complete at least 2 hours of eligible continuing education courses in each year of a license cycle that involve law, rules, and court cases regarding real estate. The licensee may select any continuing education courses in his or her area of expertise to complete the remaining hours of eligible continuing education courses required under subsection (1) and may complete those hours at any time during the license cycle. For purposes of this subdivision only, the license cycle year beginning November 1, 2019 ends on December 31, 2020.

(b) At the time he or she attends an eligible continuing education course, a licensee shall do both of the following to confirm his or her identity:

(*i*) Present his or her pocket card, or provide his or her license identification number, from the department to the course provider.

(*ii*) Present his or her operator's license or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or other government-issued photo identification to the course provider.

(c) If a licensee successfully completes an education course to obtain a professional designation, the number of hours of that course is counted toward the total number of hours of continuing education courses required in a license cycle.

(d) If a licensee successfully completes an eligible continuing education course, he or she does not earn additional hours toward the requirements of this section if he or she repeats that course.

(e) The department by rule shall do all of the following:

(*i*) Determine and provide for the publication of the number of hours of eligible continuing education courses a licensee must successfully complete in a license cycle, including the 2 hours of courses involving statutes, rules, and court cases required in each year of a license cycle under subdivision (a). The department shall determine the number of hours that are required in a license cycle by multiplying the number of years in the license cycle by 6.

(*ii*) Establish the standards for determining if a continuing education course is an eligible continuing education course for purposes of this section.

(3) An applicant for license renewal under section 2502a shall certify compliance with subsections (1) and (2) to the department. A licensee shall retain evidence acceptable to the department that demonstrates he or she has met the continuing education requirements under this section, for at least 4 years after the date of that certification, and shall produce the following information at the request of the department:

(a) The name and contact information of the continuing professional education program sponsor.

(b) The participant's name.

(c) The course title and course field of study.

(d) The date the course was offered or completed.

(e) If applicable, the location of the course.

(f) Verification by a representative of the continuing professional education program sponsor of the participant's completion of the course.

(g) The number of hours of instruction included in the course and a time statement from the continuing professional education program sponsor that states that continuing professional education credits for the course were granted on a 50-minute hour.

(4) An applicant for license renewal under section 2502a is subject to audit by the department for compliance with subsections (1) and (2), or (7), and may be required to submit the documentation described in subsection (3) to the department on request.

(5) If the department finds as the result of an audit under subsection (4) that an applicant for license renewal under section 2502a did not complete sufficient hours of eligible continuing education courses to renew his or her license, any penalty imposed by the department shall include a requirement that the licensee must complete both of the following, if applicable:

(a) A sufficient number of additional hours of continuing education to fulfill the requirements for the period determined by audit to be deficient.

(b) If the period determined by the audit to be deficient is at least 60 days, additional hours of continuing education in 1 of the following amounts:

(*i*) If the deficiency period is at least 60 days and less than 120 days, 4 hours.

(*ii*) If the deficiency period is 120 days or more, 8 hours.

(6) Hours of additional continuing education required under subsection (5)(b) do not apply toward

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continuing education required in a license cycle. The department may waive the requirement for additional hours under subsection (5)(b) if the applicant demonstrates to the department that the additional hours would present an undue hardship on the applicant.

(7) If a real estate broker, associate real estate broker, or salesperson receives a license that is issued after the beginning of the current license cycle for that license, the department may prorate the number of hours of eligible continuing education that licensee is required to complete under subsections (1) and (2) for the year of the license cycle in which the license is issued.

(8) Course credits used to meet continuing education requirements under this section do not apply toward the real estate broker's license prelicensure education requirements under section 2504, and course credits successfully completed under real estate broker's license prelicensure education requirements under section 2504 do not apply toward the continuing education requirements of this section.

(9) As used in this section, "eligible continuing education course" means a continuing education course that meets the standards established by the department by rule under subsection (2)(e) and, if successfully completed by a licensee, is counted toward the licensee's continuing education requirements under this section.

History: Add. 2014, Act 106, Eff. Jan. 1, 2015;—Am. 2016, Act 502, Eff. Mar. 29, 2017;—Am. 2017, Act 56, Eff. Sept. 13, 2017;—Am. 2020, Act 342, Imd. Eff. Dec. 30, 2020.

Popular name: Act 299

339.2505 Real estate broker's license; application; contents; execution of application; effect of certain convictions; place of business; branch office license; signature; proof; examination; experience.

Sec. 2505. (1) An individual or business entity that is applying for a real estate broker's license shall file an application with the department. All of the following apply to an application for a real estate broker's license:

(a) The application must include the applicant's current business address; if the applicant is an individual, the address of his or her residence; and the complete address of each former place where the applicant resided or was 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.

(b) The application must include the name of the individual or business entity that is the proposed licensee; the location of the place for which the license is sought; and the period of time in which the applicant has been engaged in the business.

(c) The application must be executed by the applicant, if the applicant is an individual, or by a principal of the applicant if the applicant is a business entity.

(d) If the applicant is a business entity, the application shall designate which individuals who are control persons of the entity will be performing acts regulated by this article as principals. An applicant shall not designate a control person as a principal unless that control person is licensed as an associate real estate broker under this article.

(2) The department shall not issue a real estate broker's license to an individual 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 in this state, the real estate broker must obtain a branch office license for each of those additional places of business. If a branch office is located more than 25 miles from the nearest boundary of the municipality in which the main office of the real estate broker is located, the broker shall ensure that the branch office is under the direct supervision of an associate broker. As used in this subsection, "direct supervision" means that an associate broker is physically present at the branch office on a regular basis to supervise and manage the business during ordinary business hours.

(4) An application for a real estate salesperson's license shall be signed by the real estate broker that will employ the applicant. The department shall only issue a real estate salesperson's license to an individual.

(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 license under this article if the applicant is an individual or of each principal if the applicant is a business entity. Subject to subsection (6), the department shall require that each of those individuals pass an examination developed by the department or contracted for with a recognized outside testing agency that establishes, in a manner satisfactory to the department, that he or she 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 an individual

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described in this subsection, and if the department does require a written examination or reexamination under this subsection, the department shall not issue a license unless the individual taking the examination or reexamination achieves a passing score satisfactory to the department.

(6) All of the following apply to the written examination requirement described in subsection (5):

(a) The department may relicense without examination an individual who is applying for a real estate broker's or associate real estate broker's license; has previously held a real estate broker's or associate real estate broker's license that has lapsed; and has been continuously licensed as a real estate salesperson since the lapse of the previous license.

(b) A passing score on an examination, or on a portion of an examination if the examination is given in separate parts, is valid for 1 year from the date of the examination.

(7) The department shall require proof that each applicant for a real estate broker's license, if the applicant is an individual, or each principal if the applicant is a business entity, has the equivalent of 3 years of full-time experience in the business of real estate. All of the following apply in determining whether an individual meets this experience requirement:

(a) If state law requires that a person hold a license to be licensed to perform an activity that is considered the business of real estate, an individual shall not receive credit for experience performing that activity without proper licensure.

(b) For purposes of calculating whether an individual has the equivalent of 3 years of experience, the department shall grant the following credit or credits toward that 3-year requirement:

(*i*) If the individual is a real estate salesperson, 1 year of credit for each 12-month period of licensure in which he or she closed 5 or more real estate transactions.

(*ii*) If the individual is a builder, 1 year of credit for each 12-month period in which he or she built and personally sold or leased at least 5 residential units, commercial units, or industrial units or a combination of those types of units.

(*iii*) If the individual is a real estate investor, 6 months of credit for each 5 real property transactions personally negotiated for a purchase or sale by the individual for his or her own account, with a maximum of 1 year of credit allowed. However, an individual shall not receive credit under this subdivision if he or she engaged in more than 5 sales in any 12-month period in violation of section 2502b.

(*iv*) If the individual is a land or condominium developer, 1 year of credit for each 2 developments or subdivisions that contain at least 10 units or parcels that he or she bought, subdivided, and improved for sale as lots or dwellings.

(*v*) If the individual is an attorney, 1 year of credit for each year in which he or she acted as the attorney for at least 6 real estate transactions.

(*vi*) If the individual is a real estate appraiser who is licensed under article 26, 1 year of credit for each period equivalent to at least 40 hours per week, and at least 48 weeks per year, in which he or she acted as a real estate appraiser.

(*vii*) One year of credit for each period equivalent to at least 40 hours per week, and at least 48 weeks per year, in which the individual worked in a capacity directly related to the acquisition, financing, or conveyance of real estate, or in a position in which the individual was directly involved in a real estate business, including serving as the decision-making authority in any of the following positions:

(A) A loan or trust officer of a federal or state-regulated depository institution.

(B) A loan or trust officer of a mortgage company.

(C) A real estate officer of a corporation, and who is not a licensed real estate broker.

(D) A title insurance company officer engaged in the closing of escrow accounts and real estate closings.

(*viii*) Credit for any other experience that is approved by the department by rule, in consultation with the board, as equivalent to the experience described in this subsection.

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;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2506 Real estate broker, associate real estate broker, associate real estate broker, or real estate salesperson; license and pocket card or temporary license required; delivering or mailing real estate salesperson's license to broker; custody and control of license; notice of change of location; notice of suspended or revoked license; forward of pocket card and license to department; transfer of license to new real estate broker; application.

Sec. 2506. (1) Except as provided in subsection (5), an individual shall not act as a real estate broker, associate real estate broker, or real estate salesperson if he or she has not received from the department his or

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her license and pocket card or received a temporary license. An individual licensed under this article shall not act as a real estate broker, associate real estate broker, or real estate salesperson if he or she does not have, on his or her person, his or her pocket card or temporary license or a photocopy or digital image of that pocket card or temporary license.

(2) The department shall deliver or mail the license of a real estate salesperson to the real estate broker that employs the real estate salesperson, and the broker shall retain custody and control of the salesperson's certificate of license and deliver the pocket card for that license to the salesperson.

(3) A licensee shall give written notice to the department of any change of either a principal or branch business location.

(4) If he or she receives notice that his or her license is suspended or revoked, a real estate salesperson, or an associate real estate broker that is not the sole associate real estate broker for a real estate broker that is a business entity, shall immediately forward his or her pocket card to the department and the real estate broker to which the individual was licensed shall immediately forward the salesperson's or associate real estate broker's license to the department. If he or she receives notice that his or her license is suspended or revoked, a real estate broker who is an individual, or an associate real estate broker who is the sole associate real estate broker for a real estate broker that is a business entity, shall immediately forward to the department his or her license and pocket card, the licenses and pocket cards of all real estate salespersons and nonprincipal associate real estate brokers issued under the real estate broker, and all of the real estate broker's branch office licenses.

(5) If the department receives a completed application under section 2507 or 2508 for transfer of a real estate salesperson's license or an associate real estate broker's license to a new real estate broker and the applicable fees, the department shall consider the pocket card as proper evidence of licensing for 45 days from the latest date written on the back of the card. If the real estate salesperson or associate real estate broker who is applying for the license transfer is notified that the application is incomplete, or the real estate broker to which he or she is transferring his or her license is not licensed, his or her pocket card is no longer valid and the applicant must wait until the new broker receives his or her wall license and pocket card before engaging in activities that are regulated under this article.

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;—Am. 2011, Act 33, Imd. Eff. May 24, 2011;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

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; limitation.

Sec. 2507. (1) 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 on the real estate broker by the real estate salesperson, the department shall notify the real estate broker in writing that it has received an application for a transfer of license by the real estate salesperson. As of the date of the notification, the notification shall operate as if a written notice were served by the real estate salesperson or the real estate broker.

(2) A real estate broker, at the time it delivers or mails a real estate salesperson's license to the department under subsection (1), shall notify the real estate salesperson in writing, delivered or mailed to the last known residence address of the real estate salesperson, that advises the real estate salesperson that the real estate broker has delivered or mailed the license to the department. A copy of the communication to the real estate salesperson shall accompany the license when the license is mailed or delivered to the department.

(3) Except as provided in section 2506(5), 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 his or her termination from a real estate broker under this section.

(4) The department shall not issue more than 1 license 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;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2508 Real estate broker's license; entities to which issued; authorized acts; associate real estate broker's license; transferability; suspension; issuance of new license; death or disability of sole principal associate broker.

Sec. 2508. (1) The department may issue a real estate broker's license to an individual, sole proprietorship,

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partnership, association, corporation, limited liability company, common law trust, or a combination of those entities. A real estate broker's license that is issued to an individual or a sole proprietorship entitles the individual named on the license to perform acts regulated under this article. Subject to subsection (2), a real estate broker's license issued to a partnership, association, corporation, limited liability company, common law trust, or a combination of those entities entitles those individuals designated as principals under section 2505(1) to perform acts regulated under this article. A broker's license issued to a partnership, association, corporation, limited liability company, 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 is subject to the same requirements as an applicant for a real estate broker's license. The department shall only issue an associate real estate broker's license to an individual.

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

(4) An associate real estate broker's license that is 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) If a real estate broker's license is revoked, the licenses of all real estate salespersons who are employed by the real estate broker and all affiliated associate real estate brokers are automatically suspended, pending a change of employer and the issuance of a new license. The department shall issue a new license under this subsection without charge if the license is issued during the same term in which the original license was issued.

(6) In the event of the death or disability of a sole principal associate broker, the department shall allow all affiliated real estate licensees a reasonable time to either wind up the business of the real estate broker or designate a new principal associate broker.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988;—Am. 2014, Act 106, Eff. Jan. 1, 2015.

Popular name: Act 299

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

Sec. 2509. (1) The department may issue more than 1 associate real estate broker's license to principals of a real estate broker.

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

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2510 Real estate salesperson; commission or valuable consideration.

Sec. 2510. (1) A real estate salesperson shall not accept a commission or valuable consideration for the performance of an act specified in this article from any person other than the real estate broker that employs the salesperson.

(2) If an individual earned commissions or other income while employed by a real estate broker, it is not grounds for disciplinary action under section 2512 for that broker to pay those commissions or income to that individual, regardless of whether that individual is now employed by another real estate broker or is no longer licensed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2511 Plan or scheme for selling or promoting sale of real estate.

Sec. 2511. 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, 1931 PA 328, MCL 750.372a, 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.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 164, Imd. Eff. July 2, 1990;—Am. 2010, Act 48, Imd. Eff. Apr.

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22, 2010.

Popular name: Act 299

339.2512 Prohibited conduct; penalties; filing complaint under article 5.

Sec. 2512. (1) A licensee that 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) If the licensee is an associate real estate broker or real estate salesperson, represents or attempts to represent a real estate broker other than his or her employer without the express knowledge and consent of the employer.

(d) Fails to account for or to remit money that comes into the licensee's possession that belongs to others.

(e) Changes a business location without notification to the department.

(f) If the licensee is a real estate broker, fails to return a real estate salesperson's license within 5 days under section 2507.

(g) If the licensee engaged in property management, violates section 2512c(2), (5), or (6).

(h) Except as provided in section 2510(2), shares or pays a fee, commission, or other valuable consideration to a person that is not licensed under this article, including payment to any person that provides the name of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of a commercially prepared list of names. However, a licensed real estate broker may pay a commission to a real estate broker that is licensed by 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 that does not comply with section 2601(a)(*ii*).

(j) Fails to provide the minimum services specified under section 2512d(3) when providing services under a service provision agreement unless expressly waived in writing by the client under section 2517(2).

(k) Except in connection with a property management account, fails to deposit money in its possession that belongs to another person in a custodial trust or escrow account that is maintained by the real estate broker, in a manner that complies with all of the following:

(*i*) A real estate broker shall retain a deposit or other money made payable to a person that holds 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 or deliver to the real estate broker, on receipt, a deposit or other money paid in connection with a transaction in which the real estate salesperson is engaged on behalf of the real estate broker.

(*iii*) A real estate broker shall not deposit or permit the deposit of an advance payment of money that belongs to others in the real estate broker's business or personal account or commingle or permit the commingling of that money with funds on deposit that belong to the real estate broker.

(*iv*) A real estate broker may maintain more than 1 trust account. A real estate broker may deposit not more than $2,000.00 of its own money in each trust account to cover bank service charges and bank minimum balance requirements or to avoid the closing of the account because there is no money in the account. The real estate broker shall account for any of its own money in a trust account in the records described in subparagraph (*vi*).

(*v*) 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 that belongs to others and is 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.

(*vi*) A real estate broker shall keep records of money deposited in its custodial trust or escrow account, and indicate clearly in those records 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 are 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 under 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

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association or a state or federally chartered credit union.

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

(2) A complaint that seeks a penalty under article 5 for a violation of this section must be filed within 18 months after 1 of the following dates, whichever occurs later:

(a) The date of the alleged violation.

(b) If the alleged violation occurs in connection with a real estate transaction, the date the transaction is completed.

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;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

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 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 month's rent or less for the referral of prospective tenants.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 2022, Act 21, Imd. Eff. Mar. 10, 2022.

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.

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(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; duties; services; misleading public prohibited; waiver of services in limited service agreement.

Sec. 2512d. (1) A licensee that is acting under the terms of a service provision agreement shall perform the duties described in subsection (2). A real estate broker may authorize a designated agent to represent the client, if that authorization is in writing.

(2) A licensee that is acting under the terms of a service provision agreement owes, at a minimum, the following duties to a 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 broker.

(f) An accounting in a timely manner of all money and property received by the broker 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 licensee that is acting under the terms of a service provision agreement shall provide the following services to a client:

(a) If 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 on 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. At the time of execution of an offer to purchase, a licensee shall recommend to the purchaser that the purchaser require that the seller provide a fee title policy in the amount of the purchase price to the purchaser, issued or certified to the approximate date of closing of the real estate transaction.

(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. Without written approval of the buyer and seller, a licensee shall not close a transaction on any terms or conditions that are contrary to the terms or conditions of an executed purchase agreement.

(e) For a real estate broker or associate real estate broker that 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 associate real estate broker showing each party all receipts and disbursements affecting that party. However, this subdivision does not apply if the closing is conducted by a title insurance company, or a person designated to act as the agent of a title insurance company, that is licensed or authorized to do business in this state.

(4) A real estate broker or real estate salesperson that is 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;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2512e Advertisement.

Sec. 2512e. (1) Except as provided in subsection (2), any advertisement to buy, sell, exchange, rent, lease, or mortgage real property or a business opportunity by a real estate broker shall include the broker's name or the name under which the broker is conducting business; shall include the broker's telephone number or street

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address; and shall state that the person doing the advertising is a real estate broker.

(2) An individual who is licensed as a real estate broker or associate real estate broker may advertise real property that he or she personally owns for sale or for lease in his or her own name, and is not required to include the name of the real estate broker, or the name of the real estate broker that employs the associate real estate broker, as the sales or leasing agent for the property in the advertisement. However, the advertising shall indicate affirmatively that the individual who is selling or leasing the real property is a licensed real estate broker or associate real estate broker.

(3) Except as provided in subsection (2) or (4), a real estate salesperson or an associate broker shall only advertise to buy, sell, exchange, rent, lease, or mortgage real property or a business opportunity under the supervision of, and in the business name of, his or her employing broker. Any advertising displayed or published on or after January 1, 2018, that includes the name of an associate broker, a salesperson, or a cooperating group of associate brokers or salespersons employed by the same real estate broker, shall include all of the following:

(a) The telephone number or street address of the employing broker.

(b) The business name of the employing broker, in equal or greater type size than the name of the associate broker, salesperson, or cooperating group.

(4) A real estate salesperson shall not advertise to sell real property under his or her own name unless the property is the principal residence of the salesperson. A real estate salesperson shall not advertise real property for rent or lease under his or her own name unless the salesperson is the owner of the property.

(5) A real estate broker shall not conduct business or advertise under a name other than that in which the broker's license is issued or under an assumed name that is authorized by law. A real estate broker shall notify the department of its adoption of an assumed name with its license application, or within 30 days after it adopts an assumed name, whichever is earlier.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2512f Supervision of real estate salesperson.

Sec. 2512f. (1) A real estate broker or associate real estate broker shall supervise the work of a real estate salesperson. For purposes of this subsection, supervision of a real estate salesperson includes at least all of the following:

(a) Direct communication in person or by radio, telephone, or electronic communication, on a regular basis.

(b) Review of the practice of the salesperson.

(c) Review of the salesperson's reports.

(d) Analyses and guidance of the salesperson's performance in regulated activities.

(e) Providing written operating policies and procedures to the salesperson.

(2) A real estate broker shall not contract with an individual real estate salesperson or nonprincipal associate real estate broker who is employed by the real estate broker in a manner that limits the broker's authority to supervise the salesperson under subsection (1).

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

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

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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 Interest in real property; acquisition by licensee; proof of disclosures and consents.

Sec. 2516. (1) If a licensee buys or otherwise acquires, directly or indirectly, an interest in real property, the licensee shall disclose to the owner of the property that the licensee is licensed under this part before the owner is asked to sign the purchase agreement.

(2) If a licensee acquires, directly or indirectly, an option to purchase real property from an owner that requested the licensee's services as a real estate licensee in connection with that property, the licensee shall disclose to the owner of the property that the licensee is licensed under this part before the owner is asked to sign the option agreement.

(3) A licensee that buys or otherwise acquires an interest in real property, directly or indirectly, and that is owed a commission, fee, or other valuable consideration as a result of the sale, shall disclose that the licensee is licensed under this part to the seller or owner to receive the specified consideration.

(4) On request of the department, a licensee shall provide written proof of any disclosures and consents required under this section to the department.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Compiler's note: Former MCL 339.2516, which pertained to renewal fee for license, was repealed by Act 83 of 1981, Imd. Eff. July 1, 1981.

Popular name: Act 299

339.2516a Inspection of document or record by representative of department.

Sec. 2516a. During normal business hours, a licensee shall allow any authorized representative of the department to enter any of its places of business in this state and inspect any document or record that the department determines is reasonably necessary for an investigation of the licensee or a review of the business activities of the licensee, the administration of this act, or the administrative rules promulgated under this article.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

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Popular name: Act 299

339.2516b Rescission of rules.

Sec. 2516b. R 339.22205 to R 339.22301, R 339.22309 to R 339.22311, R 339.22317 to R 339.22319, R 339.22323 to R 339.22329, and R 339.22339 to R 339.22405 of the Michigan Administrative Code are rescinded.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

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.

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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
____ Buyer's Agent
____ Buyer's Agent – limited service agreement
____ Dual Agent
____ None of the above

Affiliated Licensee Disclosure (check one)

_____Only the licensee's broker and a named supervisory broker have the same agency relationship as the licensee named below. If the other party in a transaction is represented by an affiliated licensee, then the licensee's broker and all named supervisory brokers shall be considered disclosed consensual dual agents.

_____All affiliated licensees have the same agency relationship as the licensee named below.

Further, this form was provided to the buyer or seller before disclosure of any confidential information.

_____ _____
Licensee Date

_____ _____
Licensee Date

Acknowledgment

By signing below, the parties acknowledge that they have received and read the information in this agency disclosure statement and acknowledge that this form was provided to them before the disclosure of any confidential information.

_____ _____
Potential Buyer/Seller (circle one) Date

_____ _____
Potential Buyer/Seller (circle one) Date

(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:

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—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 allparties 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.

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(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 note: In (2)(e) of the "DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS" form, 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

ARTICLE 26

339.2601 Definitions.

Sec. 2601. As used in this article:

(a) "Appraisal" means an opinion, conclusion, or analysis relating to the value of real property but does not include any of the following:

(*i*) A market analysis performed by a person that is licensed under article 25 solely for the purpose of assisting a customer or potential customer in determining the potential sale, purchase, or listing price of real property or the rental rate of real property as long as a fee or any other valuable consideration is not charged for that analysis.

(*ii*) A market analysis of real property for a fee performed by a broker or associate broker who is licensed under article 25 that does not involve a federally related transaction if the market analysis is put in writing and it states in boldfaced print "This is a market analysis, not an appraisal and was prepared by a licensed real estate broker or associate broker, not a licensed appraiser.".

(*iii*) An assessment of the value of real property performed on behalf of a local unit of government that is

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authorized to impose property taxes when performed by an assessor who is certified under section 10d of the general property tax act, 1893 PA 206, MCL 211.10d, or an individual employed in an assessing capacity.

(b) "AQB criteria" means all of the following, if applicable:

(*i*) The criteria established by the appraiser qualifications board of the appraisal foundation and in effect on the effective date of the amendatory act that added subparagraph (*ii*). The director by rule may amend the criteria described in this subparagraph if the director determines that an amendment is required for purposes of this article.

(*ii*) Any amendments adopted by the appraiser qualifications board of the appraisal foundation to the criteria described in subparagraph (*i*). The director by rule may amend the amendments described in this subparagraph if the director determines that an amendment is required for purposes of this article.

(c) "Appraiser" means an individual who is engaged in or offering to engage in the development and communication of an appraisal.

(d) "Certified general real estate appraiser" means an individual who is licensed under section 2610 to appraise all types of real property, including nonresidential real property involving federally related transactions and real estate related financial transactions.

(e) "Certified residential real estate appraiser" means an individual who is licensed under section 2610 to appraise all types of residential real property involving real estate related financial transactions and federally related transactions as authorized by the regulations of a federal financial institution regulatory agency and resolution trust corporation as well as any nonresidential, nonfederally related transaction for which the individual is qualified.

(f) "Federal financial institution regulatory agency" means the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, the office of thrift supervision, or the national credit union administration.

(g) "Federally related transaction" means any real estate related financial transaction that a federal financial institution regulatory agency engages in, contracts for, or regulates and that requires the services of an appraiser under any of the following:

(*i*) 12 CFR part 323, adopted by the federal deposit insurance corporation.

(*ii*) 12 CFR parts 208 and 225, adopted by the board of governors of the federal reserve system.

(*iii*) 12 CFR parts 701, 722, and 741, adopted by the national credit union administration.

(*iv*) 12 CFR part 34, adopted by the office of the comptroller of the currency.

(*v*) 12 CFR parts 506, 545, 563, 564, and 571, adopted by the office of thrift supervision.

(h) "Limited real estate appraiser" means an individual who meets the AQB criteria for appraiser trainee and is licensed under section 2610 to perform appraisals of those properties that the state certified supervisory appraiser is permitted and competent to appraise.

(i) "Real estate related financial transaction" means any of the following:

(*i*) A sale, lease, purchase, investment in, or exchange of real property or the financing of real property.

(*ii*) A refinancing of real property.

(*iii*) The use of real property as security for a loan or investment, including mortgage-backed securities.

(j) "Real property" means an identified tract or parcel of land, including improvements on that land, as well as any interests, benefits, or rights inherent in the land.

(k) "Residential real property" means real property used as a residence containing a dwelling that has not more than 4 living units.

(*l*) "State licensed real estate appraiser" means an individual who is licensed under section 2610 to appraise real property, including, but not limited to, residential and nonresidential real property involving federally related transactions and real estate related financial transactions.

(m) "Uniform standards of professional appraisal practice" means all of the following, if applicable:

(*i*) Standards relating to real property adopted by the appraisal foundation and in effect on the effective date of the amendatory act that added subparagraph (*ii*). The director by rule may amend the standards described in this subparagraph if the director determines that an amendment is required for purposes of this article.

(*ii*) Any amendments adopted by the appraiser standards board of the appraisal foundation to the standards described in subparagraph (*i*). The director by rule may amend the amendments described in this subparagraph if the director determines that an amendment is required for purposes of this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990;—Am. 1994, Act 125, Imd. Eff. May 16, 1994;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006;—Am. 2014, Act 433, Eff. Jan. 1, 2015.

Compiler's note: 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

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Compiled Laws.

Popular name: Act 299

339.2603 Board of real estate appraisers; creation; qualifications of members.

Sec. 2603. (1) There is created a board of real estate appraisers.

(2) Of those board members who are appraisers, 3 shall be certified general real estate appraisers, 1 shall be a certified residential real estate appraiser, and 2 shall be either state licensed real estate appraisers or additional certified residential real estate appraisers. At least 1 of those appraisers may be employed by a state or nationally chartered bank, a state or federally chartered savings and loan or savings bank, a state or federally chartered credit union, an entity of the federally chartered farm credit system, or an entity regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

History: Add. 1990, Act 269, Imd. Eff. Oct. 17, 1990;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2010, Act 90, Imd. Eff. June 10, 2010.

Popular name: Act 299

339.2605 Uniform standards of professional appraisal practice; rules; use of AQB criteria.

Sec. 2605. (1) At a minimum and subject to subsection (2), a licensee under this article who performs an appraisal shall utilize the uniform standards of professional appraisal practice that are in effect at the time the licensee is engaged to perform the appraisal.

(2) The director may supplement or adopt by reference any amendments to the uniform standards of professional appraisal practice through the promulgation of rules if the director determines that the amendments or supplemental standards serve as a basis for the competent development and communication of an appraisal and are not in conflict with federal requirements.

(3) The director through promulgation of a rule may supplement or adopt by reference any changes promulgated by a federal financial institution regulatory agency relative to standards for a federally related transaction.

(4) The department shall utilize the AQB criteria regarding education, examination, and experience for licensure under this article.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006;—Am. 2014, Act 433, Eff. Jan. 1, 2015.

Popular name: Act 299

Administrative rules: R 339.23101 et seq. of the Michigan Administrative Code.

339.2607 Prohibited representations; definitions; authorized appraisals.

Sec. 2607. (1) A person shall not act as or offer to act as an appraiser unless licensed under this article or exempt from licensure under this article.

(2) An individual shall not represent himself or herself to be a state licensed real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, or a limited real estate appraiser unless that individual is licensed under this article in the appropriate capacity.

(3) The terms "state licensed real estate appraiser", "certified general real estate appraiser", "certified residential real estate appraiser", or "limited real estate appraiser" or any similar term tending to connote licensure under this article shall refer only to an individual licensed under this article and shall not refer to or be used in connection with the name or signature of a person that is not an individual licensed under this article.

(4) An individual licensed as a certified general real estate appraiser may perform the appraisal of real property of any type or value, including appraisals required for federally related transactions and real estate related financial transactions.

(5) An individual licensed as a certified residential real estate appraiser may perform the appraisal of residential real property and any other residential or nonresidential appraisal required for a federally related transaction for which a certified residential real estate appraiser is authorized under sections 1113 and 1114 of title XI of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3342 and 3343, real estate related financial transactions, and any nonfederally related transaction for which the licensee is qualified.

(6) An individual licensed as a state licensed real estate appraiser may independently perform the appraisal of residential real property and any other residential or nonresidential appraisal required for a federally related transaction for which a state licensed real estate appraiser is authorized under title XI of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3342 and 3343, real estate related financial transactions, and any nonfederally related transaction for which the licensee is

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qualified.

(7) An individual licensed as a limited real estate appraiser may perform independently only those appraisals related to transactions not requiring, under federal law or regulations, the services of a state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser. The appraisal must contain the supervisory signature of the state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser and must also contain the signature of the limited real estate appraiser only where the appraisal is performed by the limited real estate appraiser under the provisions of this subsection.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Popular name: Act 299

Administrative rules: R 339.23101 of the Michigan Administrative Code.

339.2609 Appraisal; requirements.

Sec. 2609. An appraisal shall be in writing and shall do all of the following:

(a) Disclose any limitations on the type of analysis, valuation, or opinion.

(b) Be independently and impartially prepared and conform to the uniform standards of professional appraisal practice and any other standards adopted by the director.

(c) Include an opinion of defined value of adequately described real property as of a specific date and be supported by the presentation and analysis of relevant market information.

(d) Indicate on every appraisal report the license number and level of licensure of the appraiser.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

Popular name: Act 299

339.2610 Licensure as limited real estate appraiser, state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.

Sec. 2610. The department shall license as a limited real estate appraiser, a state licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser an individual who is at least 18 years of age, is of good moral character, and provides proof of having completed the minimum education, examination, and experience requirements contained in the AQB criteria for the appropriate license category.

History: Add. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Popular name: Act 299

339.2611 Repealed. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Compiler's note: The repealed section pertained to qualifications for licensure as limited real estate appraiser.

Popular name: Act 299

339.2613-339.2615 Repealed. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Compiler's note: The repealed sections pertained to qualifications for licensure as state licensed real estate appraiser, certified residential real estate appraiser, and certified general real estate appraiser.

Popular name: Act 299

339.2617 Rules regulating educational courses; courses; compliance with AQB criteria.

Sec. 2617. (1) The director may promulgate rules regulating the offering of educational courses required under this article, including the type and conditions of instruction, the qualification of instructors, the methods of grading, the means of monitoring and reporting attendance, and the representations made by course sponsors.

(2) All educational courses required under this article shall be courses offered by 1 of the following:

(a) An institution of higher education authorized to grant degrees, being a college, university, or community or junior college.

(b) A private school licensed by the department of education under 1943 PA 148, MCL 395.101 to 395.103, or authorized to operate in any other state or jurisdiction.

(c) A state or federal agency or commission.

(d) A nonprofit association related to real property or real property appraisal.

(3) Educational courses required for licensure under this article shall comply with AQB criteria.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

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Popular name: Act 299

Administrative rules: R 339.23101 et seq. of the Michigan Administrative Code.

339.2619 Appraiser qualification board endorsed uniform real property appraiser examination; equivalent; validity of scores.

Sec. 2619. (1) Except as otherwise provided in section 2623, an individual seeking licensure under this article as a state licensed real estate appraiser, certified general real estate appraiser, or certified residential real estate appraiser shall first successfully pass the appraiser qualification board endorsed uniform real property appraiser examination or its equivalent as appropriate to the level of licensure sought and that is acceptable to the board and the department.

(2) The board and department may adopt an examination prepared or approved by a professional entity or organization including, but not limited to, the appraisal qualification board if the department and the board determine that the examination serves as a basis for determining whether an individual has the knowledge and skills to perform with competence.

(3) Examination scores are considered valid for 2 years from the date of the examination.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Popular name: Act 299

339.2621 Repealed. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Compiler's note: The repealed section pertained to experience required for licensure.

Popular name: Act 299

339.2623 Licensing without examination.

Sec. 2623. The department shall issue a certified general real estate appraiser, certified residential real estate appraiser, or state licensed real estate appraiser license without examination to an individual who, at the time of application, is licensed, registered, certified, or otherwise regulated by another state at that level if the requirements of that state, as determined by the board and the department, are at least equal to the requirements of this article.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

Popular name: Act 299

339.2625 Nonresident licensing; service of process; temporary permit.

Sec. 2625. (1) A nonresident of this state may become licensed under this article by conforming with this article. The nonresident shall file an irrevocable consent to service of process which consent shall be signed by the licensee. 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 shall immediately serve by first-class mail a copy of the process or pleading to the licensee's last known address as determined by the records of the department.

(2) The department may issue a temporary permit, valid for 180 days, to a nonresident of this state who holds a valid license from another state or United States jurisdiction licensing or regulating appraisers and is temporarily in this state to conduct an appraisal involving a federally related transaction or a real estate related financial transaction. The application shall be accompanied by proof of licensure or regulation in the other state or jurisdiction, a consent to the service of process as described in subsection (1), and a written description of the nature of the temporary assignment. The holder of a temporary permit may apply in writing for 1 extension of the temporary permit for not more than 180 days. The holder of a temporary permit is not required to complete continuing education.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

Popular name: Act 299

339.2627 Continuing education requirements.

Sec. 2627. As a condition for the renewal of licensure as a limited real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, or a state licensed real estate appraiser, a licensee shall complete the minimum continuing education requirements described in the AQB criteria.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Popular name: Act 299

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339.2629 Repealed. 2009, Act 178, Imd. Eff. Dec. 15, 2009.

Compiler's note: The repealed section pertained to relicensure of individual whose license as a certified general real estate appraiser, certified residential real estate appraiser, or state licensed real estate appraiser has lapsed.

339.2631 Repealed. 1990, Act 269, Eff. Dec. 31, 1991.

Compiler's note: The repealed section pertained to temporary license for real estate appraisers.

Popular name: Act 299

339.2633 Duties of licensee.

Sec. 2633. A licensee shall do all of the following:

(a) Include, in any appraisal or report provided to a client, the following statement: "Appraisers are required to be licensed and are regulated by the Michigan Department of Labor and Economic Growth, P.O. Box 30018, Lansing, Michigan 48909.".

(b) Maintain an actual place of business whose address shall be used as the licensee address and in all advertising.

(c) Maintain a system of books and records open to the department upon request during normal business hours. The books and records shall be maintained in accordance with the uniform standards of professional appraisal practice, the requirements of this article, and any requirements imposed by rules promulgated under this article. The books and records shall show all appraisals undertaken by name of client and the address or description of the property appraised. In addition, applicants for licensure as a state licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser must also provide an appraisal log that includes, at a minimum, the documentation or data required to be kept under the AQB criteria.

(d) Advertise only the services authorized to be rendered according to the type of license issued and only in the name and address under which the individual is licensed. The licensee shall indicate on every appraisal report the license number and level of licensure.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Popular name: Act 299

339.2635 Prohibited conduct; penalties; complaint.

Sec. 2635. (1) Except as otherwise provided in subsection (2), a licensee who does 1 or more of the following is subject to the penalties set forth in article 6:

(a) Violates any of the standards for the development and communication of real property appraisals as provided in this article or a rule promulgated under this article.

(b) Fails or refuses without good cause to exercise reasonable diligence in developing or communicating an appraisal.

(c) Demonstrates incompetence in developing or communicating an appraisal.

(d) Fails to make available to the department on request or fails to maintain books and records required under this article.

(e) Performs, attempts to perform, or offers to perform appraisal services for which the individual is not licensed under this article.

(f) Aids or abets another to commit a violation of this act or the rules promulgated under this act.

(g) Uses the license of another individual or knowingly allows another individual to use his or her license.

(h) If a limited real estate appraiser fails to disclose to the client, before making an appraisal, that the licensee's appraisal cannot be used in a federally related transaction.

(i) Develops and communicates, in violation of the standards adopted under this article, an appraisal used as an investment or as collateral for a loan in a real-estate-related financial transaction by developing and communicating that appraisal as a result of the client's or intended user's doing either or both of the following:

(*i*) Setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work. As used in this subparagraph, "setting preconditions on the outcome of an appraisal" does not include the communication of information, including documents related to the property being appraised, necessary to identify the valuation problem to be solved and the scope of work necessary to determine credible assignment results.

(*ii*) Representing or implying that payment for the development and communication of the appraisal is predicated on attaining a desired minimum appraised value.

(2) An individual licensed under this article who violates subsection (1)(i) is guilty of a misdemeanor punishable by a fine of not more than $15,000.00 or imprisonment for not more than 1 year, or both.

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(3) A complaint under article 5 that seeks a penalty for a violation of this section must be filed within 18 months after 1 of the following dates, whichever occurs later:

(a) The date of the alleged violation.

(b) If the alleged violation occurs in connection with the performance of an appraisal, the delivery of the appraisal to the client.

(c) If the alleged violation occurs in connection with an appraisal or appraisal review performed in the capacity of an expert witness, the delivery of the appraisal or appraisal review to the opposing party.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006;—Am. 2008, Act 531, Imd. Eff. Jan. 13, 2009;—Am. 2018, Act 157, Eff. Aug. 21, 2018.

Popular name: Act 299

339.2636 Sanctions taken by another state.

Sec. 2636. (1) A sanction against an individual licensed under this article in this state by another state or jurisdiction may be grounds for disciplinary action in this state if the offense is substantially similar to a violation of this act or rules promulgated under this act.

(2) A licensee shall report to the department sanctions taken by another state or jurisdiction against his or her appraisal license issued by that other state within 30 days after the final order imposing disciplinary action.

History: Add. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

Popular name: Act 299

339.2637 List of licensees; remittance of fee.

Sec. 2637. Not less than monthly, the department shall compile a list of certified general real estate appraiser, certified residential real estate appraiser, and state licensed real estate appraiser licensees under this article, provide it to the appraisal subcommittee of the federal financial institutions examination council as required by section 1109 of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3338, and remit the appropriate fee for each year the individual is licensed under section 38 of the state license fee act, 1979 PA 152, MCL 338.2238.

History: Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

Popular name: Act 299

ARTICLE 26A

339.2661 Definitions.

Sec. 2661. As used in this act:

(a) "Appraisal" means that term as defined in section 2601.

(b) "Appraisal management company" means a person that provides appraisal management services.

(c) "Appraisal management services" means to perform any of the following functions for a client or clients:

(*i*) Recruiting, selecting, and retaining appraisers.

(*ii*) Contracting with independent contract appraisers to perform appraisal assignments.

(*iii*) Managing the process of having an appraisal performed, including, but not limited to, providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed.

(*iv*) Reviewing and verifying the work of appraisers.

(d) "Appraiser" means that term as defined in section 2601.

(e) "Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company. As used in this subdivision, appraiser includes both appraisers accepted by the appraisal management company for consideration for future appraisal assignments and appraisers engaged by the appraisal management company to perform 1 or more appraisals. An appraiser is an independent contractor if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

(f) "Certified appraiser" means a certified general real estate appraiser, as that term is defined in section 2601, or a certified residential real estate appraiser, as that term is defined in section 2601.

(g) "Client" means a person that contracts with, or otherwise enters into an agreement with, an appraisal

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management company for the performance of real estate appraisal services.

(h) "Controlling person" means any of the following:

(*i*) An owner, officer, or director of a corporation, partnership, or other business entity that offers or applies to offer appraisal management services in this state.

(*ii*) An individual who is employed, appointed, or authorized by an appraisal management company and has the authority to enter into contractual relationships with clients for the performance of appraisal management services and the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services.

(*iii*) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(i) "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as that term is defined in 12 USC 1813, and is regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.

(j) "Real estate appraisal services" means the practice of developing an opinion of the value of real property in a manner that conforms with the uniform standards of professional appraisal practice.

(k) "Uniform standards of professional appraisal practice" means that term as defined in section 2601.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2663 Conduct requiring license; exceptions.

Sec. 2663. (1) Except as provided in subsection (2), a person shall not do any of the following in this state without a license issued by the department under this article:

(a) Directly or indirectly engage or attempt to engage in business as an appraisal management company.

(b) Directly or indirectly perform or attempt to perform appraisal management services.

(c) Advertise or hold itself out as engaging in or conducting business as an appraisal management company.

(d) Use the term "appraisal management company", "mortgage technology company", or any similar term that tends to indicate the person is licensed under this act.

(2) This article does not apply to any of the following:

(a) A person that exclusively engages individuals on an employer-employee basis to perform real estate appraisal services in the normal course of its business and that is responsible for ensuring that the real estate appraisal services performed by its employees comply with the uniform standards of professional appraisal practice.

(b) A person that in the normal course of business enters into an agreement, whether written or otherwise, with an independent contractor appraiser for that appraiser to perform real estate appraisal services and, when the appraisal is complete, cosigns the report with that independent contractor appraiser.

(c) A federally regulated appraisal management company, except as related to the information and fees collected by the department that is to be transmitted to the appraisal subcommittee of the Federal Financial Institutions Examination Council established under section 1004 of the financial institutions regulatory and interest rate control act of 1978, Public Law 95-630, 12 USC 3303.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2665 Licensure as appraisal management company; application; form; information; fee; national registry information and fees.

Sec. 2665. (1) A person seeking licensure as an appraisal management company under this article shall submit to the department a license application, in the form prescribed by the department, that includes all of the following information:

(a) The applicant's name.

(b) The street address of the applicant's principal place of business. The department shall not accept an application that includes only a post office box as an address.

(c) Telephone contact information concerning the applicant.

(d) The name and contact information for the applicant's agent for service of process in this state.

(e) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns 10% or more of the appraisal management applicant.

(f) The name, address, and contact information for any controlling person of the applicant.

(g) A certification that the applicant has the system and process described in section 2673(1) in place.

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(h) A certification that the applicant has the system described in section 2673(2)(b) in place.

(i) A certification that the applicant maintains the detailed record of each service request described in section 2673(3).

(j) A completed irrevocable consent to service of process, in the form prescribed by the department, executed on behalf of the applicant.

(k) Any other information that is reasonably required by the department to process the application.

(2) An applicant for licensure shall include with the application submitted under subsection (1) the license fee described in section 38a of the state license fee act, 1979 PA 152, MCL 338.2238a.

(3) An applicant for licensure or a federally regulated appraisal management company shall provide the department with any national registry information and fees required by the appraisal subcommittee of the Federal Financial Institutions Examination Council under section 1109 of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3338.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2667 Conditions to licensure; bond.

Sec. 2667. (1) The department shall not grant a license to a person applying for a license as an appraisal management company under this article unless all of the following are met:

(a) Any person that is a direct or indirect owner of the applicant has not had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked for a substantive cause in this state or in any other state, as determined by the department. An applicant is not barred by this subsection if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by this state or any other states in which the appraiser was licensed or certified.

(b) Any individual who owns more than 10% of the applicant meets all of the following:

(*i*) Has not had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in this state or in any other state, unless that license or certificate was subsequently granted or reinstated.

(*ii*) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation, or moral turpitude.

(*iii*) Submits to a background investigation, as determined by the department.

(*iv*) Certifies to the department that he or she has never had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in this state or in any other state, unless that license or certificate was subsequently granted or reinstated.

(c) The applicant designates an individual to act as the primary contact for all communication between the department and the appraisal management company. The individual designated under this subdivision must be an attorney licensed to practice law in any state or territory of the United States who is designated by the appraisal management company or an individual who meets all of the following:

(*i*) He or she is a controlling person of the applicant.

(*ii*) He or she certifies to the department that he or she has never had a certificate or a license issued by this state or any other state to act as an appraiser refused, denied, canceled, or revoked, unless that license or certificate was subsequently granted or reinstated.

(*iii*) He or she has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation, or moral turpitude.

(*iv*) He or she submits to a background investigation, as determined by the department.

(*v*) He or she has a valid license as a certified appraiser.

(d) If applicable, the applicant meets subsection (2).

(2) If an application for a license under this article is made by a person whose license under this article was previously denied, suspended, or revoked as a result of disciplinary action for violation of this article or rules promulgated under this article, the department may require, as a condition to licensure of the applicant or the removal of the suspension, that the applicant provide a surety bond to the department that meets all of the following:

(a) Is issued by a bonding company or insurance company authorized to do business in this state.

(b) Expires after the date the license expires.

(c) Is in a principal amount of not more than $5,000.00. The department shall determine the principal amount of the bond, based on the size of the applicant's operation in this state.

(d) Is in a form satisfactory to the department, is payable to the department for the benefit of Michigan residents, and secures the performance of the obligations of the applicant in connection with the conduct of its business.

(3) If the department orders the filing of a bond under subsection (2), a person injured by an unlawful act

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or omission of the applicant may bring an action in a proper court on the bond for the amount of the damage suffered as a result to the extent covered by the bond.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2669 Licensure; issuance; prohibitions; certificate; term; expiration.

Sec. 2669. (1) The department shall not issue a license under this article to a person applying for licensure as an appraisal management company if the person does not meet the requirements of sections 2665 and 2667.

(2) If the department issues a license as an appraisal management company under this article, the department shall provide the licensee a license certificate.

(3) The term of a license under this article is 3 years. The department may grant a shorter term for an initial license under this article so that all licenses issued under this article expire on the same date. The department shall include the expiration date of an appraisal management company's license on its license certificate.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014.

Popular name: Act 299

339.2670 List of licensees and federally regulated appraisal management companies; remittance of fees.

Sec. 2670. Not less than monthly, the department shall compile a list of appraisal management company licensees and federally regulated appraisal management companies under this article, provide it to the appraisal subcommittee of the Federal Financial Institutions Examination Council as required by section 1109 of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3338, and remit the appropriate fee under section 38a of the state license fee act, 1979 PA 152, MCL 338.2238a.

History: Add. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2671 Ensuring employees trained or holding license as certified appraiser; definitions; conduct subject to penalties.

Sec. 2671. (1) An appraisal management company shall ensure that any employee of the appraisal management company, or any other individual working on behalf of the appraisal management company, who is responsible for selecting independent appraisers for the performance of real estate appraisal services for the appraisal management company or reviewing completed appraisals for the appraisal management company is appropriately trained.

(2) An appraisal management company shall ensure that any employee or independent contractor of the company who is responsible for completing standard 3 appraisal reviews, or who performs a standard 3 appraisal review, on its behalf has a valid license as a certified appraiser. As used in this subsection:

(a) "Quality control examination" means an examination of an appraisal review report to determine the report's completeness, including, but not limited to, examining the report for grammatical, typographical, or other similar errors.

(b) "Standard 3 appraisal review" means an appraisal review that meets the requirements of standard 3 of the uniform standards of professional appraisal practice for appraisal reviews. The term does not include a quality control examination.

(3) An appraisal management company that does any of the following is subject to the penalties under article 6:

(a) Employs any individual to perform appraisal services who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, unless that license or certificate was subsequently granted or reinstated.

(b) Enters into any independent contractor arrangement, whether in verbal, written, or other form, with any individual to perform appraisal services who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, unless that license or certificate was subsequently granted or reinstated.

(c) Enters into a contract or agreement with an independent appraiser for the performance of real estate appraisal services unless that individual is licensed under article 26.

(d) Fails, neglects, or refuses to pay an independent appraiser for an appraisal or valuation assignment within 30 days after the date on which the independent appraiser transmits or otherwise provides the completed appraisal or valuation to the appraisal management company or its assignee, unless the appraiser breached his or her agreement with the company concerning that assignment or his or her performance of the appraisal or valuation services was substandard.

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(e) Alters, modifies, or otherwise changes a completed appraisal report submitted by an independent appraiser.

(f) Procures a license for itself or anyone else by fraud, misrepresentation, or deceit.

(g) Requires an appraiser to indemnify the appraisal management company or hold the appraisal management company harmless for liability, damage, losses, or claims arising out of the services provided by the appraisal management company, if the appraiser did not perform those services.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2673 Ensuring certain system and process in place; annual certification by appraisal management company.

Sec. 2673. (1) An appraisal management company licensed under this article shall certify to the department on an annual basis, on a form prescribed by the department, that it has a system and process in place to do both of the following:

(a) Verify that an individual the company is adding to its appraiser panel is licensed under article 26.

(b) Ensure that the appraisal management company, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type.

(2) An appraisal management company licensed under this article shall certify to the department on an annual basis, on a form prescribed by the department, that it meets both of the following:

(a) Directs appraisers to perform an assignment in accordance with the uniform standards of professional appraisal practice.

(b) Has a system in place to periodically review the work of appraisers who perform real estate appraisal services for the company to verify that the real estate appraisal services are being conducted in accordance with the uniform standards of professional appraisal practice.

(3) An appraisal management company licensed under this article shall certify to the department on an annual basis, on a form prescribed by the department, that it maintains a detailed record of each service request that it receives and the identity of the independent appraiser that performs the real estate appraisal services for the appraisal management company. An appraisal management company shall retain the records described in this subsection for at least 5 years.

(4) An appraisal management company licensed under this article shall certify to the department on a biannual basis, on a form prescribed by the department, that it has a system in place to verify that each individual on its appraiser panel has not had his or her license as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in the 24 months preceding the date of the company's certification under this subsection.

(5) An appraisal management company licensed under this article shall certify to the department on an annual basis, on a form prescribed by the department, that it has a system in place to conduct its appraisal management services in accordance with the requirements of section 129E(a) to (i) of the truth in lending act, 15 USC 1639e(a) to (i), and regulations promulgated under that act.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

339.2675 Conduct subject to penalties; exceptions.

Sec. 2675. (1) Except as provided in subsection (2), an employee, director, officer, or agent of an appraisal management company licensed under this article that influences or attempts to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, or bribery or in any other manner, including, but not limited to, any of the following, is subject to the penalties under article 6:

(a) Withholding or threatening to withhold timely payment for an appraisal.

(b) Withholding or threatening to withhold future business for an independent appraiser.

(c) Demoting or terminating or threatening to demote or terminate an independent appraiser.

(d) Promising an independent appraiser, either expressly or by implication, future business, promotions, or increased compensation.

(e) Conditioning a request for an appraisal service or the payment of an appraisal fee or salary or bonus on reaching a particular opinion, conclusion, or valuation or on a preliminary estimate or opinion requested from an independent appraiser.

(f) Requesting that an independent appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time before the independent

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appraiser's completion of an appraisal service.

(g) Providing to an independent appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount of a loan to a borrower. However, this subdivision does not prohibit providing a copy of a sales contract for a purchase transaction to the appraiser.

(h) Providing an independent appraiser, or a person related to the appraiser, stock or other financial or nonfinancial benefits.

(i) Removing an independent appraiser from an appraiser panel without prior written notice to that appraiser.

(j) Doing any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(2) Subsection (1) does not prohibit, and shall not be construed to prohibit, an appraisal management company from requesting that an independent appraiser do any of the following:

(a) Provide additional information about the basis for a valuation.

(b) Correct objective factual errors in an appraisal report.

(c) Consider additional verifiable information that was not previously known or considered by the appraiser in completing the valuation or appraisal.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014.

Popular name: Act 299

339.2677 Removal of independent appraiser from appraiser panel; requirements; complaint; determination by department.

Sec. 2677. (1) An appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser, without doing all of the following:

(a) Not less than 10 business days before the removal of the appraiser, notifying the appraiser in writing of all of the following, as applicable:

(*i*) The reasons why the appraiser will be removed from the panel.

(*ii*) If the appraiser will be removed from the panel for illegal conduct, a violation of the uniform standards of professional appraisal practice, or a violation of state licensing standards, the nature of the alleged conduct or violation.

(b) Providing an opportunity for the appraiser to respond to the company's notification or notifications under subdivision (a).

(2) If an appraisal management company removes an independent appraiser from its appraiser panel for alleged illegal conduct, an alleged violation of the uniform standards of professional appraisal practice, or an alleged violation of state licensing standards, the appraiser may file a complaint with the department for a review of the decision of the appraisal management company. In its consideration of the complaint, the department may not make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the alleged conduct or violation.

History: Add. 2012, Act 505, Eff. Apr. 1, 2014;—Am. 2020, Act 250, Imd. Eff. Dec. 22, 2020.

Popular name: Act 299

ARTICLE 27

339.2701-339.2721 Repealed. 1988, Act 463, Eff. Sept. 1, 1989;—Repealed. 2014, Act 156, Imd. Eff. June 11, 2014.

Compiler's note: The repealed sections pertained to registration requirements for ocularists.

Popular name: Act 299

ARTICLE 29

339.2901-339.2919 Repealed. 2014, Act 151, Eff. June 24, 2014.

Compiler's note: The repealed sections pertained to creation of board of auctioneers and registration requirements for auctioneers.

Popular name: Act 299

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