

Act No. 106
Public Acts of 2014
Approved by the Governor
April 7, 2014
Filed with the Secretary of State
April 10, 2014
EFFECTIVE DATE: January 1, 2015

STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014

Introduced by Senators Kowall, Bieda, Ananich, Meekhof and Richardville

ENROLLED SENATE BILL No. 641

AN ACT to amend 1980 PA 299, entitled "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," by amending sections 2502a, 2504, and 2508 (MCL 339.2502a, 339.2504, and 339.2508), section 2502a as added by 2002 PA 611, section 2504 as amended by 2003 PA 196, and section 2508 as amended by 1988 PA 16, and by adding section 2504a.

The People of the State of Michigan enact:

Sec. 2502a. (1) The department shall issue a license for a real estate broker, associate real estate broker, and real estate salesperson for a term of 3 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 without examination a person that 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 person applies within 3 years after the expiration date of the person's last license.

(b) The person pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period.

(c) The person completes 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of the person's last license, on the topics described in section 2504a(1).

(4) The department may relicense a person that failed to renew a real estate broker license within 3 years after the expiration date of the person's last license if the person pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period and submits proof that the person, if the person is an individual, or the individual designated as the person's principal under section 2505 if the person is not an individual, 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 the person's last license, on the topics described in section 2504a(1).

(b) Has completed 90 clock hours of prelicensure courses described in section 2504(3).

(c) Has passed the examination required for a real estate broker license under section 2505(5).

(5) 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).

(c) Has passed the examination required for a real estate salesperson license under section 2505(5).

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 not an individual, must successfully complete at least 90 clock hours of approved prelicensure classroom courses in real estate, of which at least 9 clock hours is instruction on civil rights law and equal opportunity in housing. The 90 hours are in addition to the hours required to obtain a real estate salesperson's license.

(2) Before he or she is permitted to take the real estate salesperson's examination, the 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, of which at least 4 clock hours is instruction on civil rights law and equal opportunity in housing.

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

(a) Real estate license law and related regulatory laws.

(b) Real property law, including property interests and restrictions.

(c) Federal, state, and local tax laws affecting real property.

(d) Conveyances, including contracts, deeds, and leases.

(e) Financing, including mortgages, land contracts, foreclosure, and limits on lending procedures and interest rates.

(f) Appraisal of real property.

(g) Design and construction.

(h) Marketing, exchanging, and counseling.

(i) The law of agency.

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

(k) Real estate securities and syndications.

(l) Investments, including property management.

(4) A person that offers or conducts a prelicensure course or courses of study 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 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 is a recommendation or indorsement 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 a local public school district, a community college, an institution of higher education authorized to grant degrees, or a proprietary school licensed by the department under the proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103.

(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.

Sec. 2504a. (1) Within each 3-year license cycle, a licensee shall successfully complete at least 18 clock hours of continuing education courses that involve any subjects that are relevant to the management, operation, and practice of

real estate or any other subject that contributes to the professional competence of a licensee or applicant. All of the following apply to this continuing education requirement:

(a) In each calendar year of each 3-year license cycle, a licensee shall complete at least 2 hours of the required 18 hours of continuing education courses.

(b) In completing the appropriate number of continuing education courses, a licensee may select education courses in his or her area of expertise, but at least 2 hours of the education courses in a calendar year must involve law, rules, and court cases regarding real estate.

(c) At the time he or she attends a 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.

(d) Any education course that the licensee successfully completes to obtain a professional designation is counted toward the total continuing education credits required in a 3-year license cycle.

(e) If a licensee successfully completes a continuing education course, he or she does not earn additional hours toward the requirements of this section if he or she repeats that course.

(2) An applicant for license renewal under section 2502a shall certify compliance with subsection (1) 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 record that contains that evidence at the request of the department. The department shall consider the following as acceptable evidence under this subsection:

(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) The type of instruction or delivery method used for presenting the course.

(g) Verification by a representative of the continuing professional education program sponsor of the participant's completion of the course.

(h) 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.

(3) An applicant for license renewal under section 2502a is subject to audit by the department for compliance with subsection (1) or (6) and may be required to submit the documentation described in subsection (2) to the department on request.

(4) If the department finds as the result of an audit under subsection (3) that an applicant for license renewal under section 2502a has not completed sufficient hours of continuing education to renew his or her license, the department may allow the applicant to renew his or her license by completing 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.

(5) Hours of additional continuing education required under subsection (4)(b) do not apply toward continuing education required in the next 3-year license cycle. The department may waive the requirement for additional hours under subsection (4)(b) if the applicant demonstrates to the department that the additional hours would present an undue hardship on the applicant.

(6) A real estate broker, associate broker, or salesperson who receives a license issued in the second or third year of a 3-year license cycle is required to comply with the continuing education requirements under subsection (1), except as follows:

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

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

(7) 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.

Sec. 2508. (1) The department may issue a real estate broker's license to an individual, sole proprietorship, 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.

Enacting section 1. R 339.22651 of the Michigan administrative code is rescinded.

Enacting section 2. This amendatory act takes effect January 1, 2015.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

.....
Governor