

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

OFFICE OF COMMERCIAL SERVICES

COLLECTION AGENCIES

GENERAL RULES

(By authority conferred on the department of consumer and industry services by sections 205 and 308 of Act No. 299 of the Public Acts of 1980, as amended, being §§339.205 and 339.308 of the Michigan Compiled Laws, and Executive Reorganization Order 1996 2, being §445.2001 of the Michigan Compiled Laws)

R 339.4001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code.

(b) "Average monthly business" means 1/12 of the total yearly amount due to clients, based on the following provisions:

(i) For a collection agency, the amount in the trust account that is the sum of the net amounts due to each client, without regard to remaining accounts receivable due the agency.

(ii) For a repossession agency, the current market value of all items repossessed for clients for the preceding year.

(iii) For a collection agency also performing repossessions, the combined value of funds due to clients in the trust account pursuant to the provisions of paragraph (i) of this subdivision and the current market value of items repossessed for clients pursuant to the provisions of paragraph (ii) of this subdivision.

(c) "Board" means the collection practices board.

(2) The terms defined in the act have the same meanings when used in these rules.

History: 1997 AACCS.

R 339.4003 Conduct of public meetings; "chairperson" defined.

Rule 3. (1) For the purpose of this rule, "chairperson" means the person who is authorized to convene and moderate a meeting of the board or any committee of the board and also means any other person who is acting temporarily as convenor or moderator.

(2) Each person present at a public meeting shall be provided a reasonable opportunity to address the public meeting on an agenda item or a topic relevant to the public body that is not on the agenda if the person makes a request to the board's offices or to the department before convening the meeting or to the chairperson before the conclusion of the meeting.

(3) A group of 5 or more persons may be asked to give advance notice to the chairperson or the department of its intention to attend a meeting so that an effort may be made to provide adequate space. Advance notice is not required.

(4) The chairperson shall do all of the following:

(a) Conduct the public participation portion of the meeting in an orderly and decorous fashion.

(b) Within the time limits available, recognize each person wishing to speak.

(c) Allow for public comment on each agenda item and allocate a specific time on the agenda for general public comments.

(d) Exclude a person from the meeting only for a breach of the peace actually committed at the meeting.

(5) The chairperson may do any of the following:

(a) Limit the number of persons admitted to the meeting room if necessary to comply with public safety laws and regulations.

- (b) Temporarily recess and promptly reconvene the meeting in a larger meeting room if more space is necessary.
- (c) Impose reasonable limitations on the time allotted for public comments.
- (d) Inquire as to the interest or interests, if any, represented by a person addressing the meeting.
- (e) To preserve the rights of all parties, prohibit a member of the public from addressing the meeting on the subject of an administrative law case pending before the board until a disposition of the case has been voted upon by the board.

History: 1997 AACCS.

R 339.4005 Qualifying experience required of applicant for collection agency manager or owner manager license.

Rule 5. (1) For the purposes of this rule, 6 months of experience shall be deemed to be 1,000 hours spent in the collection of delinquent accounts.

(2) To meet the requirements of section 911(b) of the act, an applicant for licensure as a collection agency manager or the owner manager of a collection agency shall submit, on forms provided by the department, evidence of 1,000 hours of experience that meets all of the following requirements:

(a) Includes time spent in the actual collection of debts and property from consumers or debtors, including all of the following:

- (i) Determining the amount owed and the whereabouts of the debtor or property.
- (ii) Communicating with the debtor.
- (iii) Maintaining records on attempts to collect or repossess.
- (iv) Supervising debt collection and repossession staff.

(b) Was obtained while employed by a licensed collection agency or the credit or collection department of a business or financial institution engaged in collecting debts on its own behalf in accordance with the provisions of Act No.70 of the Public Acts of 1981, being §445.251 et seq. of the Michigan Compiled Laws.

(c) Is capable of being verified upon request by the department.

(2) Qualifying experience does not include any of the following:

- (a) Telemarketing efforts.
- (b) Time spent in the supervision of staff not engaged in collecting debts.
- (c) Efforts to secure creditors as clients.
- (d) General administrative tasks.

History: 1997 AACCS.

R 339.4007 Bonds; basis for determination of required bond amounts.

Rule 7. (1) As required by the provisions of section 907 of the act, each licensed collection agency shall maintain a corporate surety or cash bond. The amount of the bond shall be determined as follows:

(a) The initial bond amount for a collection agency shall be not less than \$5,000.00.

(b) The minimum bond amount for a repossession agency or a collection agency also performing repossessions shall be \$10,000.00 at all times, even if the average monthly business drops below \$10,000.00.

(2) To renew a license, the amount of the bond required to be submitted shall be calculated on the average monthly business as reported to the department on the annual report required of licensees pursuant to the provisions of section 910(3) of the act.

(3) In determining the amount of the required bond required for license renewal, the following table shall apply:

Average Monthly Business Required Bond

Less than \$ 5,000.00	\$ 5,000.00	\$ 5,001.00 to \$10,000.00	\$10,000.00
\$10,001.00 to \$15,000.00	\$15,000.00	\$15,001.00 to \$20,000.00	\$20,000.00
\$20,001.00 to \$25,000.00	\$25,000.00	\$25,001.00 to \$30,000.00	\$30,000.00

\$30,001.00 to \$35,000.00	\$35,000.00	\$35,001.00 to \$40,000.00	\$40,000.00
\$40,001.00 to \$45,000.00	\$45,000.00	\$45,001.00 to \$50,000.00	\$50,000.00
More than \$50,000.00	\$50,000.00		

History: 1997 AACS.

R 339.4009 Bonds; agency suspension reinstatement.

Rule 9. (1) In accordance with the provisions of section 907 of the act, a bond shall provide that the department shall receive 30 days, advance notice of the cancellation of a collection agency's bond by the bond's surety. Unless a new bond is filed with the department before the expiration of the original bond, the license of the collection agency shall be summarily suspended upon the expiration of the bond. The license shall be reinstated when a new bond is properly filed with the department, if all other requirements for licensure continue to be met.

(2) If the department finds that the licensee's annual report understated the amounts upon which the required bond amount is determined, the licensee shall, within 90 days of being notified by the department, become bonded in the required amount and require the surety to notify the department that the bond amount has been corrected. The license of the collection agency shall be summarily suspended if it fails to become bonded in the required amount within 90 days. The license shall be reinstated when a new bond is properly filed with the department, if all other requirements for licensure continue to be met.

History: 1997 AACS.

R 339.4011 Loss of agency manager; notice to department by agency manager, time period for obtaining new manager; temporary operation; reinstatement.

Rule 11. (1) If the department becomes aware that a collection agency has lost the services of the collection agency manager who is responsible for that agency, the department shall immediately notify the collection agency owner that the agency has 30 days to obtain the services of another licensed collection agency manager or cease operations. If the agency fails to obtain a new collection agency manager within 30 days, the agency's license maybe summarily suspended for failure to have a licensed collection agency manager pursuant to the provisions of section 908(2) of the act. A collection agency manager who ceases to be associated with a collection agency may choose to notify the department in writing that he or she has terminated his or her relationship with the collection agency and that he or she is no longer responsible for all agency operations.

(2) If, during the 30-day period provided pursuant to the provisions of subrule (1) of this rule, a completed application for agency manager licensing has been filed with the department and the applicant has been approved for examination, the agency may be permitted to continue operations under the direct supervision of the agency owner until the results of the examination are issued. If the applicant fails the examination, the collection agency's license shall be summarily suspended.

(3) The license shall be reinstated when written notice is properly filed with the department that a new agency manager has been obtained or when the department issues a new agency manager license, if all other requirements for licensure continue to be met.

History: 1997 AACS.