

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

DIRECTOR'S OFFICE

REAL ESTATE BROKERS AND SALESPERSONS - GENERAL RULES

(By authority conferred on the director of the department of labor and economic growth by sections 205, 308, and 2504 of 1980 PA 299, MCL 339.205, 339.308 and 339.2504 and Executive Reorganization Orders No. 1996-2, MCL 445.2001, and 2003-1, MCL 445.2011)

PART 1. GENERAL PROVISIONS

R 339.22101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Approved as determined by the department" or "approval as determined by the department" means review and approval by the department or review by a statewide real estate related trade association designated by the department pursuant to section 210 of the code, recommendation by the statewide real estate related trade association to the department, and final approval by the department.

(b) "Association" as referred to in section 2505 (1) of the code includes a limited liability company.

(c) "Classroom" means either:

(i) A physical location where educational courses are offered and students and instructor are present.

(ii) A location where a student receives instruction through electronic means.

(d) "Clock hour" means a period of not fewer than 50 minutes of actual classroom instruction, not including outside assignments and reading. For distance learning systems, "clock hour" means the amount of material a student can process in 50 minutes of computerized instruction.

(e) "Code" means 1980 P.A. 299, MCL 339.101 et seq.

(f) "Continuing education course" means a course that is represented as fulfilling the requirements of section 2504(4) of the code.

(g) "Coordinator" means the individual who assumes the responsibility under these rules for offering approved courses.

(h) "Credit hour" means not fewer than 10 clock hours of approved educational courses.

(i) "Distance learning" means either of the following:

(i) Approved courses where instructor and student may be apart and instruction takes place through other media.

(ii) Approved courses which include but are not limited to instruction presented through interactive classrooms, computer conferencing, and interactive computer systems and which fulfill the requirements of section 2504(4) of the code.

(j) "Directly" means in a direct way marked by the absence of any intervention, instrumentality, or influence; not concealed, not disguised.

(k) "Electronic communication" means a communication created, stored, generated, received, or transmitted by electronic means in a format that allows text to be visually displayed or printed.

(l) "Indirectly" means not resulting or occurring directly from obvious means or cause; remotely connected, concealed, or disguised.

(m) "Instructor" means an individual who assumes responsibility under these rules for instructing an approved course. Instructors shall possess at least 1 of the following minimum qualifications:

(i) Be an instructor of real estate courses who is or has been engaged in the practice of teaching at an accredited institution of higher learning.

(ii) Be a person properly licensed or certified by the department or other governmental agency who is engaged in the real estate aspects of appraising, financing, marketing, brokerage management, real property management, real estate counseling, real property law, or other related subjects.

(iii) Be a person who possesses alternative qualifications approved by the department, and is qualified by experience, education, or both to supervise and instruct a course of study.

(n) "Licensee" means a person who is licensed under article 25 of the code.

(o) "Non-principal associate broker," referenced in sections 2508 (4) and 2509 (3) of the code, means an individual who is not a sole proprietor, an officer or equity owner, a member, manager, or general partner, in the association, partnership, corporation, or other entity authorized by the state of Michigan under which the business is organized.

(p) "Principal associate broker," referenced in sections 2508 and 2509 of the code, means an individual who is a sole proprietor, member, manager, general partner, equity owner, or officer of the corporation, association, general partnership, or other entity authorized by the state of Michigan under which the business is organized.

(q) "Prelicensure real estate course" or "prelicensure course" means a course that is represented to the public as fulfilling, in whole or in part, the requirements of section 2504 (1) and (2) of the code.

(r) "Real estate school" or "institution" means an approved entity which represents to the public that any of its courses fulfill, in whole or in part, the requirements of section 2504 (1) and (2) of the code for prelicensure education. The entity shall also meet the requirements as set forth in section 2504 (8) of the code.

(s) "Service provision agreement" means an agreement between the broker and client which establishes an agency relationship through a listing agreement or a buyer agency agreement.

(t) "Sponsor" means a person, as defined in section 105 (5) of the code, and approved as determined by the department, which represents to the public that any of its courses fulfill the requirements of section 2504 (4) of the code for continuing education.

(u) "Student" means a member of the public or a licensee who is attending an approved course designed to fulfill the requirements of section 2504 of the code.

(v) "Supervision," as defined in R 339.22310, means the overseeing of, or participation in, the work of another licensed individual by a broker or associate broker.

(w) "Transfer" means a process used by a salesperson or non-principal associate broker to apply for and receive a license issued to a different employing broker.

(2) Terms defined in sections 103, 105, and 2501 of the code have the same meanings when used in these rules.

History: 1991 AACCS; 1997 MR 7; Eff. Aug. 4, 1997; 2002 AACCS.

R 339.22103 Board meetings.

Rule 103. Board meetings are held in accordance with 1976 P.A. 267, MCL 15.261 et seq. and are open to the public.

History: 1991 AACCS; 2002 AACCS.

R 339.22199 Rescission.

Rule 199. R 338.2601 to R 338.2619, R 338.2701, R 338.2703, and R 338.2721 to R 338.2786 of the Michigan Administrative Code, appearing on pages 2569 to 2585 of the 1979 Michigan Administrative Code, are rescinded.

History: 1991 AACCS.

PART 2. LICENSING

R 339.22201 Application; eligibility.

Rule 201. (1) A license shall not be issued to an individual who is less than 18 years old.

(2) A broker license shall be issued to a legal entity only if the individual who holds the broker license is identified on the application as 1 of the following:

- (a) A sole proprietor.
- (b) A partner in the partnership.
- (c) A partner in a limited partnership.
- (d) An officer for the corporation.
- (e) A member or manager for the association.
- (f) A holder of a responsible position of authority in any other legal entity authorized by the state of Michigan under which the business is organized.

(3) Associate broker and salesperson licenses shall only be issued to individuals.

(4) Associate brokers shall have met the requirements for broker licensure.

(5) The department may require an applicant to submit a report from an independent source pertaining to his or her previous occupation, criminal record, or any other information material to the applicant's qualifications for licensure.

History: 1991 AACCS; 2002 AACCS.

R 339.22203 Validity of broker education; validity of salesperson education.

Rule 203. (1) An applicant for a broker or associate broker license shall have completed 90 clock hours of qualifying prelicensure education of which 9 clock hours shall be on civil rights law and fair housing law, as defined in section 2504 (1) of the code. The broker prelicensure education shall be completed not more than 36 months before the date of application, unless the applicant has held a license as a salesperson for that intervening period.

(2) Acceptable courses for prelicensure education shall meet criteria established by the department, but may be reviewed and preapproved by a statewide real estate trade association for subject matter relevant to the practice of real estate. Not more than 1 broker course on the same subject will be accepted for credit.

(3) In meeting the broker prelicensure education requirements, credit shall be given for either of the following:

(a) Possession of a law degree, obtained at any time before the date of application, shall be equated to 60 clock hours of real estate education which includes 6 hours of instruction in civil rights law and fair housing law.

(b) Possession of a master's degree in business administration from an accredited institution of higher learning shall be equated to 60 clock hours of real estate education.

(4) An applicant for a salesperson license shall have completed 40 clock hours of qualifying prelicensure education of which 4 clock hours shall be on civil rights law and fair housing law, as defined in section 2504(2) of the code. The salesperson prelicensure education shall be completed not more than 36 months before the date of application.

History: 1991 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22205 Acceptable, related experience for broker applicants.

Rule 205. (1) For purposes of calculating the time during which an applicant for a license as a broker or associate broker has been engaged in the real estate business as required by section 2505 (5) of the code, the following credit shall be granted by the department:

(a) Real estate salesperson or broker: One year of credit for each 12-month period of licensure in which 6 or more real estate transactions, as defined in section 2501(b) of the code, are verified.

(b) Builder: One year of credit for each 12-month period in which 6 residential units, or 6 commercial units, or 6 industrial units, or a combination thereof, were built and personally sold or leased by the applicant.

(c) Investor: Six months of credit for each 6 real property transactions personally negotiated for a purchase or sale by the applicant for his or her own account with a maximum of 1 year of credit allowed. However, credit shall not be granted if the applicant has more than 6 sales in any 12-month period in violation of the provisions of R 339.22319.

(d) Land or condominium developers: One year of credit for each 2 developments or subdivisions containing not fewer than 10 units or parcels which the applicant has bought, subdivided, and improved for sale as lots or dwellings.

(e) Attorneys: One year of experience for each year in which 6 real estate transactions were conducted as an attorney.

(f) Related occupations: One year of credit for each period equivalent to 40 hours per week, 48 weeks per year, in which the applicant has worked in a capacity directly related to the acquisition, financing, or conveyance of real estate, or positions in which the applicant has been directly involved in real estate business including serving as the decision-making authority in any of the following positions:

(i) A loan or trust officer of a federal or state-regulated depository institution.

(ii) A loan or trust officer of a mortgage company.

(iii) A real estate officer of a corporation, which is not a licensed real estate broker.

(iv) A title insurance company officer engaged in the closing of escrow accounts and real estate closings.

(v) A staff or real property appraiser.

(2) Where state law requires a person to be licensed to perform an activity, credit shall not be granted for experience obtained without proper licensure.

History: 1991 AACS; 2002 AACS.

R 339.22207 Examinations.

Rule 207. (1) A written examination is required of all applicants, except as noted in this subrule. Exceptions to the written examination requirements may be granted to any of the following:

(a) An applicant who qualifies under the Americans With Disabilities Act, P.L.101-336, 42 U.S.C. §§ 12101 et seq., may request reasonable accommodations to take the exam.

(b) An applicant for a license who, within the last 3 years, has held a license as a salesperson, broker, or associate broker.

(c) An applicant for a broker or associate broker license who, after surrendering a broker or associate broker license, has been continuously licensed as a salesperson since the surrender.

(2) A passing score on an examination, or on a portion of an examination, if the examination is given in separate parts, shall be valid for 1 year from the date of examination.

History: 1991 AACS; 2002 AACS.

R 339.22209 Conversion and transfer of license.

Rule 209. (1) A broker or associate broker license shall not be converted into a salesperson license, and a salesperson license shall not be converted into a broker or associate broker license.

(2) A salesperson shall be licensed to a broker and shall not be licensed to more than 1 broker at the same time. A salesperson shall not be licensed as a broker or associate broker while he or she holds a salesperson license.

(3) To be licensed to another broker as a salesperson, a broker or associate broker shall surrender his or her broker or associate broker licenses and apply for a

salesperson license. To return to being a broker or associate broker, the salesperson shall surrender his or her salesperson license and apply for the broker or associate broker license.

(4) An individual broker license is not transferable to a corporation, partnership, association, common law trust, or a combination of such entities, and the broker license of a corporation, partnership, association, common law trust, or a combination of such entities is not transferable to an individual. A broker license is not transferable. The license of a principal associate broker is not transferable. The license of a non-principal associate broker or a salesperson is transferable in accordance with section 2508 (4) of the code, and R 339.22101 and R 339.22211.

History: 1991 AACCS; 2002 AACCS.

R 339.22211 Transfer of salespersons or non-principal associate brokers license; transfer of pocket card and wall license.

Rule 211. (1) An applicant for a salesperson or non-principal associate broker license who desires to transfer to a different employing broker before the issuance of the original license shall file a new application for licensure.

(2) A salesperson or non-principal associate broker shall submit a signed statement to the department that he or she has obtained the dated signature and license number of his or her new broker on the reverse side of the pocket card.

(3) Upon receipt of the completed application for transfer to a new broker, the proper fees, and the old license, the department shall consider the pocket card proper evidence of licensing for 45 days from the latest date written on the back of the card. If the applicant is notified that the application is incomplete, or the broker to whom he or she is transferring is not licensed, the pocket card shall no longer be valid and the applicant shall wait until the new broker receives the wall license and pocket card before engaging in regulated activities.

(4) The ability to conduct regulated activities using the signed and dated pocket card may continue only if a salesperson transfer or new associate broker application is received within 45 days from the date on the pocket card.

History: 1991 AACCS; 2002 AACCS.

R 339.22213 License renewal; late renewal.

Rule 213. (1) An applicant for renewal of a license may continue to operate as previously licensed, using the expired wall license and pocket card as evidence of proper licensing, if the applicant has met both of the following conditions by the expiration date:

- (a) Submitted a complete application for renewal and the required fee.
- (b) Completed the required continuing education.

(2) An applicant for renewal whose application is received by the department after the expiration date shall not operate until the applicant's employing broker receives his or her new license and pocket card.

(3) A person who fails to renew a license within 60 days of expiration, shall apply for relicensure in accordance with sections 2504(5) and 411(4) of the code.

(4) Completion of continuing education for relicensure shall not qualify as completion of the continuing education requirement for the next license renewal.

(5) Unless a relicensure applicant has completed 6 clock hours of approved continuing education for every year since a license has lapsed, the applicant shall successfully complete any education or examination used to qualify for relicensure within 12 months before the applicant applies for relicensure.

History: 1991 AACS; 2002 AACS; 2007 AACS.

R 339.22215 Application for new license after revocation of previous license.

Rule 215. A person whose license has been revoked shall not apply for a new license for at least 3 years after the service of the final order. 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. Credit for education, examinations, or experience obtained before the revocation shall not be granted.

History: 1991 AACS; 2002 AACS.

PART 3. PRACTICE AND CONDUCT

R 339.22301 Assumed names.

Rule 301. (1) A broker shall not conduct business or advertise under a name other than that in which the license is issued.

(2) An individual broker or a partnership desiring to operate under an assumed name shall send to the department, with the application for a broker license, a copy of the certificate of assumed name which is certified by the clerk of the county where the certificate is on file. A broker applicant who is a legal entity shall submit a certificate of assumed name with the application certified by the proper state authority.

History: 1991 AACS; 2002 AACS.

R 339.22305 Service provision agreement.

Rule 305. (1) A broker or a licensee acting on behalf of the employing broker who enters into a service provision agreement with a party or parties shall provide, at the time of signing a true executed copy of the agreement to the party or parties signing the agreement. Every agreement shall be fully completed by the licensee before the party or parties sign it.

(2) A service provision agreement shall include a definite expiration date and shall not contain a provision requiring the party signing the agreement to notify the broker of the party's intention to cancel the agreement upon or after the expiration date.

History: 1991 AACCS; 2002 AACCS.

R 339.22307 Delivery of offer to purchase to buyer; delivery of written offers to seller; delivery of copies of acceptance to buyer and seller; inclusion of terms and conditions in offer to purchase.

Rule 307. (1) A licensee shall deliver to the buyer a signed copy of the offer to purchase immediately after it has been signed by the buyer.

(2) A licensee shall promptly deliver all written offers to purchase to the seller upon receipt. Acceptable methods of delivery include, but are not limited to, either of the following:

(a) Delivery in person or by mail.

(b) Delivery by electronic communication as defined in 2000 P.A. 305, MCL 450.831 et seq. The use of electronic records or digital signatures for any real estate transaction requires the prior agreement of the parties.

(3) Upon obtaining a proper acceptance of the offer to purchase, signed by the seller, the licensee shall promptly deliver true executed copies of the acceptance to the purchaser and seller.

(4) A licensee shall make certain that all terms and conditions of the real estate transaction are included in the offer to purchase.

(5) A licensee shall not be subject to disciplinary action for failing to submit to the seller any additional offers to purchase which are received after the seller has accepted an offer and the sales agreement is fully executed, unless a service provision agreement requires that subsequent offers be presented.

History: 1991 AACCS; 2002 AACCS.

R 339.22309 Licensee's recommendation to purchaser.

Rule 309. A licensee who is involved at the time of execution of an offer to purchase in a real estate transaction shall recommend to the purchaser that a fee title policy in the amount of the purchase price be furnished to the purchaser by the seller, issued or certified to the approximate date of the closing of the real estate transaction.

History: 1991 AACCS; 2002 AACCS.

R 339.22310 Supervision.

Rule 310. A broker or associate broker shall supervise the work of a licensee. Supervision shall include, at a minimum, 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 supervised licensee.

(c) Review of the supervised licensee's reports.

(d) Analyses and guidance of the licensee's performance in regulated activities.

(e) Provision of written operating policies and procedures.

History: 2002 AACCS.

R 339.22311 Closing transactions.

Rule 311. (1) The broker or associate broker who is involved at the closing of a real estate or business opportunity transaction, shall furnish, or cause to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associate broker showing each party all receipts and disbursements affecting that party. If the closing is conducted at a regulated depository institution, a title company, or other closing entity, the broker or associate broker is still responsible for the content of the closing statement and shall sign the final closing document.

(2) A salesperson shall not close a real estate or business opportunity transaction unless under the supervision of the broker to whom the salesperson is licensed. The broker or associate broker shall assume full responsibility for execution of the closing statements prepared by the salesperson or other persons acting under the broker's or associate broker's direct supervision.

(3) Without written approval of the seller and buyer, a licensee shall not close a transaction contrary to terms or conditions of an executed agreement.

(4) In a cooperative transaction, either the broker or the associate broker may close the sale and furnish closing statements; however, it is the final responsibility of the listing broker or associate broker to close the sale and furnish signed closing statements to both the buyer and the seller.

History: 1991 AACCS; 2002 AACCS.

R 339.22313 Trust accounts.

Rule 313. (1) Trust or escrow accounts shall be maintained in demand accounts only. Checks drawn on the trust or escrow accounts shall be signed by a broker or an associate broker. Cosignatories may be used; however, the signature of a broker or associate broker shall accompany this signature.

(2) A broker shall maintain a non-interest-bearing demand trust account when any earnest money deposits or money belonging to others comes into his or her possession. The account shall be maintained in accordance with the requirements of section 2512 (J) of the code.

(3) A broker may maintain more than 1 trust account. A broker may maintain the broker's own funds in an account that is not more than \$500.00 in each trust account to cover bank service charges and bank minimum balance requirements or to avoid the account being closed when there are no other funds in the account. The funds shall be accounted for in a bookkeeping system as described in subrule (4) of this rule.

(4) A broker shall maintain a bookkeeping system in the office. At a minimum, the system shall consist of both of the following:

(a) A record which shows the chronological sequence in which funds are received and disbursed, as follows:

(i) For funds received, the record shall include all of the following information:

(A) The date of receipt and date of deposit.

(B) The name of the party who provided the funds to the broker.

- (C) The name of the seller.
- (D) The amount of the funds.
- (ii) For funds disbursed, the record shall include all of the following information:
 - (A) The date of the disbursement.
 - (B) The payee.
 - (C) The check number.
 - (D) The purpose of the disbursement.
 - (E) The amount of the disbursement.
- (iii) A current balance of the account or accounts shall be maintained and be available to the department upon request.
- (b) A record which shows receipts and disbursements as they affect a single, particular transaction between a buyer and seller. The record shall segregate 1 transaction from another transaction, as follows:
 - (i) For funds received, the record shall include all of the following information:
 - (A) The names of both parties to a transaction.
 - (B) The property address or brief legal description.
 - (C) The dates and amounts received.
 - (ii) For funds disbursed, the record shall include all of the following information:
 - (A) The date.
 - (B) The payee.
 - (C) The check number.
 - (D) The amount of the disbursement.
- (5) All trust or escrow account records shall be maintained for a period of not less than 3 years from the date of inception of the records.
- (6) Disbursement of an earnest money deposit shall be made at consummation or termination of the agreement in accordance with the agreement signed by the parties. However, any deposit in the trust account of the broker for which the buyer and seller have made claim shall remain in the broker's trust account until a civil action has determined to whom the deposit must be paid, or until the buyer and seller have agreed, in writing, to the disposition of the deposit. The broker may also commence a civil action to interplead the deposit with the proper court.

History: 1991 AACCS; 2002 AACCS.

R 339.22315 Licensee buying or acquiring interest in property; intent.

Rule 315. (1) When buying or acquiring, directly or indirectly, an interest in a property, a licensee shall disclose the fact of his or her licensure as a real estate broker, associate broker, or salesperson clearly, in writing, to the owner before the owner is asked to sign the purchase agreement.

(2) When a licensee acquires, directly or indirectly, an option to purchase a particular property from an owner who requested the licensee's services as a real estate licensee, the licensee shall disclose the fact of his or her licensure as a real estate broker, associate broker, or salesperson, in writing, to the owner before the owner is asked to sign the option agreement.

(3) A licensee shall not become a party to a net service provision agreement for an owner, seller, or buyer as a means of securing a real estate commission.

(4) A licensee shall provide written proof of any required disclosures upon request of the department.

History: 1991 AACS; 2002 AACS.

R 339.22317 Licensee buying or acquiring interest in property; commission; consent by seller.

Rule 317. A licensee who buys or acquires an interest in property, directly or indirectly, and who is due a commission, fee, or other valuable consideration as a result of the sale shall comply with all of the following provisions before compensation is received:

(a) Disclose, in writing, to the seller or owner that the licensee will be compensated for the sale.

(b) Obtain the written permission from the seller or owner to receive the specified consideration.

(c) Provide written proof of compliance upon request by the department.

History: 1991 AACS; 2002 AACS.

R 339.22319 Licensure required for owner of real estate engaging in sale as principal vocation; acts constituting principal vocation; sale of real estate owned by broker or associate broker; licensee to reveal ownership or interest when selling property licensee owns or has interest in.

Rule 319. (1) Licensure as a real estate broker is required of an owner of real estate who engages in the sale of real estate as a principal vocation, unless the owner engages the services of a real estate broker. Acts constituting a principal vocation include any of the following:

(a) Engaging in more than 5 real estate sales in any 12-month period.

(b) Holding one's self out to the public as being principally engaged in the sale of real estate.

(c) Devoting over 50% of one's working time, or more than 15 hours per week in any 6-month period, to the sale of real estate.

(2) A sale of real estate by a real estate salesperson, other than his or her principal residence, shall be deemed to be done as a principal vocation of the salesperson and the sale shall be through a licensed broker.

(3) Sales of real estate owned by, or under option to, a broker or associate broker are subject to the provisions of the code and these rules.

(4) In selling property owned by a licensee or in which a licensee has any interest, the licensee shall reveal the facts of his or her ownership or interest and his or her licensure to the purchaser, in writing, before the offer to purchase is signed. Satisfactory written proof of this disclosure shall be provided by the licensee upon request by the department.

History: 1991 AACS.

R 339.22321 Licensee commissions for other services; disclosure and consent of buyer and seller required.

Rule 321. (1) A licensee who is entitled to receive, either directly or indirectly, a real estate commission as a result of the sale of property, may not also receive a referral fee or other valuable consideration for placing a loan in connection with that transaction unless the licensee obtains the prior written consent of the buyer and seller in that transaction and the fee is not otherwise prohibited by the real estate settlement procedures act of 1974, 12 U.S.C. 2601 et seq., or other applicable law.

(2) A licensee who is entitled to receive, either directly or indirectly, a real estate commission as a result of the sale of property, may not also receive a referral fee or other valuable consideration from an abstract, home warranty, title insurance, or other settlement service provider in connection with that transaction unless the licensee obtains the prior written consent of the party or parties with whom the licensee has an agency relationship and the fee is not otherwise prohibited by the real estate settlement procedures act of 1974, 12 U.S.C. 2601 et seq., or other applicable law.

History: 1991 AACS; 2002 AACS.

R 339.22323 Broker's place of business; location; branch office license; supervision and management of branch office.

Rule 323. (1) A broker shall maintain a place of business in this state which is an actual and established physical location from which the broker can and does conduct the broker's business and where the broker's books and records are maintained.

(2) A license for a branch office is required for any location in addition to the principal business location which, by advertising or signs or otherwise, is held out to the public as a place where clients or customers may do business or consult with a licensee.

(3) An individual broker, associate broker, or an associate broker who manages a branch office shall be reasonably available to supervise and to manage the business during regular business hours, in accordance with section 2505 (3) of the code.

History: 1991 AACS; 2002 AACS.

R 339.22325 Contract with licensee abrogating broker's authority to supervise licensee prohibited.

Rule 325. A broker shall not contract with an individual salesperson or non-principal associate broker who is licensed to the broker so as to lose the authority to supervise the licensee.

History: 1991 AACS; 2002 AACS.

R 339.22327 Display of broker license; pocket card.

Rule 327. (1) A broker shall display the broker's license and the licenses of all salespersons and associate brokers who are licensed to that broker in a conspicuous position in the broker's place of business that is obvious to the public.

(2) A broker, associate broker, or salesperson shall not serve in such capacity without having received his or her license and pocket card or a temporary license. A licensee shall not render services without having, on his or her person, a pocket card or temporary license issued by the department.

History: 1991 AACCS.

R 339.22329 Advertising generally; advertising of property owned by brokers; advertising by salespersons; advertising of property owned by salespersons.

Rule 329. (1) Except as provided in subrule (2) of this rule, all advertisements to buy, sell, exchange, rent, lease, or mortgage real estate or business opportunities by a broker shall include the broker's name as licensed and telephone number or street address. All advertising shall indicate affirmatively that the party advertising is a real estate broker.

(2) An individual licensed as a broker or associate broker may advertise personally owned property for sale or for lease in his or her own name, and need not use the name of the broker as licensed. However, the advertising shall indicate affirmatively that the party advertising is a licensed broker or associate broker.

(3) Except as provided in subrule (4) of this rule, advertising by a salesperson or an associate broker shall be under the supervision of, and in the licensed name of, the individual's broker.

(4) A salesperson may only advertise to sell property under his or her own name if the property is the principal residence of the salesperson. A salesperson may only advertise property for rent or lease under his or her own name if the salesperson is the owner of the property.

History: 1991 AACCS.

R 339.22333 Misrepresentation of material facts prohibited; disclosure of material facts.

Rule 333. (1) A licensee shall not, directly or indirectly, misrepresent material facts.

(2) A licensee's full disclosure to a buyer or seller of material facts within his or her knowledge about the condition of the real estate offered shall not be grounds for disciplinary action, despite a claim by the buyer or seller that the disclosure constituted disloyalty to the buyer or seller in violation of an agency relationship.

History: 1991 AACCS; 2002 AACCS.

R 339.22335 Rescinded.

History: 1991 AACCS; 1997 AACCS.

R 339.22337 Failure of listing broker to cooperate with other brokers.

Rule 337. Failure of the listing broker to cooperate with other brokers is not, in itself, a violation of law or these rules, unless the broker has indicated or implied to the buyer or seller that the broker would cooperate with other brokers.

History: 1991 AACCS; 2002 AACCS.

R 339.22339 Payments by brokers following termination of licensed relationship.

Rule 339. If an individual earned commissions or other income while licensed to a broker, it shall not be grounds for disciplinary action as a violation of section 2512 of the code for the broker to pay such earned commissions or income to that individual, regardless of whether that individual is now licensed to another broker or is no longer licensed under the code.

History: 1991 AACCS; 2002 AACCS.

PART 4. ENFORCEMENT

R 339.22401 Production by licensee of documents or records.

Rule 401. A licensee shall provide for inspection, by an authorized representative of the department, any document or record as may be reasonably necessary for investigation or audit in the enforcement of the code and these rules.

History: 1991 AACCS; 2002 AACCS.

R 339.22403 Rescinded.

History: 1991 AACCS; 1997 AACCS.

R 339.22405 Suspension or revocation of licenses; forwarding of pocket cards and licenses to department.

Rule 405. A salesperson or associate broker, upon notice of suspension or revocation of his or her license, shall immediately forward his or her pocket card, and the broker to whom the individual was licensed shall immediately forward the salesperson's or associate broker's license, to the department. If the suspended or revoked license is that of a broker or the associate broker who is the sole associate broker for a partnership, corporation, association, common law trust, or a combination of such entities, the broker or associate broker shall forward to the department his or her license and pocket card, the licenses and pocket cards of all salespersons, except as

provided in R 339.22211(2), and nonprincipal associate brokers issued under the broker, and all the branch office licenses.

History: 1991 AACS.

PART 5. OUT-OF-STATE LAND SALES

R 339.22501 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22503 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22505 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22507 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22509 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22511 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22513 Rescinded.

History: 1991 AACS; 2013 AACS.

R 339.22515 Rescinded.

History: 1991 AACS; 2002 AACS; 2013 AACS.

R 339.22517 Rescinded.

History: 1991 AACCS; 2013 AACCS.

R 339.22519 Rescinded.

History: 1991 AACCS; 2002 AACCS; 2013 AACCS.

R 339.22521 Rescinded.

History: 1991 AACCS; 2013 AACCS.

R 339.22523 Rescinded.

History: 1991 AACCS; 2002 AACCS; 2013 AACCS.

R 339.22525 Rescinded.

History: 1991 AACCS; 2002 AACCS.

R 339.22527 Rescinded.

History: 1991 AACCS; 2002 AACCS; 2013 AACCS.

R 339.22529 Rescinded.

History: 1991 AACCS; 2013 AACCS.

**PART 6. REAL ESTATE EDUCATION
SUBPART 1. GENERAL PROVISIONS**

R 339.22601 Course approval; certificate.

Rule 601. (1) A real estate school or sponsor shall apply for and obtain approval as determined by the department for real estate education courses before the courses are offered to the public.

(2) The department shall issue a certificate or letter of course approval or a notice of denial to the school or sponsor within 60 days after the application is received. Denials shall be based on substantive deficiencies and specify the reasons for the denial.

(3) Courses shall be approved as determined by the department. The department will accept the courses for approval that meet the criteria established by the department for course content and number of clock hours and are taught by instructors who meet the criteria in R 339.22101.

History: 1991 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22602 Advertising for approved real estate courses.

Rule 602. All advertising for approved real estate courses that are held out to the public as fulfilling the requirements of section 2504 of the code shall be in the name of the approved school or sponsor.

History: 2002 AACCS; 2007 AACCS.

R 339.22603 Solicitations.

Rule 603. (1) Organizational membership, employment, business-related solicitations, or any other noneducational presentations are prohibited during continuing education courses and prelicensure courses and shall not be counted as part of the clock hours of the course.

(2) Students or licensees shall not receive credit for solicitations or noneducational presentations offered in conjunction with an approved course.

History: 1991 AACCS; 2007 AACCS.

R 339.22604 Student records; content; inspection.

Rule 604. (1) Each approved real estate school and each real estate continuing education sponsor shall establish and maintain a record for each student.

(2) Student records shall contain all of the following information:

(a) The student's name and address.

(b) The number of clock hours attended.

(c) The student's grade, if an examination is required to determine successful completion of the course.

(d) The date of course completion.

(e) The last 4 digits of the student's social security number.

(f) The student's date of birth.

(g) The real estate license identification number, if applicable.

(3) All records shall be available for inspection during normal business hours by an authorized representative of the department, if the inspection does not violate a law.

(4) A real estate school or sponsor shall maintain records in the following manner:

(a) Records of schools shall be maintained permanently.

(b) Records of sponsors shall be maintained for a minimum of 6 years from inception date of the record.

(5) A real estate school or sponsor shall issue a certificate of completion to a student who successfully completes an approved real estate course. The certificate shall include all of the following information:

(a) The date of course completion.

(b) Identification of the course attended, including the following:

(i) The name of the course, as approved by the department.

(ii) For continuing education sponsors, the course approval numbers, as assigned by the department.

(c) The name and approval number of the school or sponsor.

(d) The name of the student. Continuing education sponsors shall also include the licensee's real estate license identification number.

(e) The number of clock hours completed by the student.

(f) The signature of the course coordinator.

(6) Each student or licensee completing a prelicensure or continuing education course shall present a state-issued photo identification or acceptable alternative form of photo identification to the school or sponsor before receiving the certificate of completion. Both of the following apply:

(a) For courses conducted in a traditional classroom setting, students or licensees shall present a state-issued photo identification or other acceptable alternative form of identification that verifies, to the satisfaction of the school or sponsor, the identification of the student or licensee.

(b) For courses conducted through distance education, the school or sponsor shall ensure that the student or licensee whose attendance is reported to the department is the same person who completed the distance education course. The school or sponsor shall take appropriate measures to ensure accurate verification of the identity of each student or licensee before reporting course completion to the department.

(7) At least 30 days before courses are held, schools and sponsors shall submit to the department a schedule and geographic location for each course.

(8) Within 5 business days of the conclusion of the last course, schools and sponsors shall submit, in a format required by the department, the names of students who have successfully completed an approved course.

History: 2002 AACCS; 2007 AACCS.

R 339.22605 Submissions with application for approval; student contracts; return of fees.

Rule 605. A submission for course approval shall contain all of the following:

(1) An application as approved by the department.

(2) A student contract, if used by the school.

(3) A copy of the school's policy for the return of fees if a student fails to appear, is dismissed, or withdraws voluntarily from a real estate prelicensure or continuing education course.

History: 2002 AACCS; 2007 AACCS.

R339.22606 Distance learning.

Rule 606. (1) Real estate education courses represented as fulfilling the requirements of section 2504 of the code and delivered through distance learning shall be approved as determined by the department before being offered to the public.

(2) A distance-learning course shall contain all of the following:

(a) All requirements listed in R 339.22651(1) for approval of a continuing education course, or R 339.22631(1) for approval of a prelicensure course.

(b) The individual modules of instruction offered on a computer or other interactive program.

(c) A list of at least 1 learning objective for each module of instruction. The learning objective shall ensure that if all the objectives are met the entire content of the course is understood.

(d) A structured learning method to enable the student to attain each learning objective.

(e) A method of assessment of the student's performance during each module of instruction.

(f) A remediation for any student who is deficient in the assessment to repeat the module until the student understands the course content material.

(3) Delivery systems which have met the distance education criteria for current certification by the association of real estate license law officials (ARELLO) shall be acceptable to the department, as follows:

(a) Proof of ARELLO certification as a primary or secondary provider, including the summary sheet and certificate, shall be provided with the application for course approval.

(b) Upon withdrawal or expiration of ARELLO certification, the approval to offer distance learning courses shall be suspended until ARELLO certification is reinstated or the sponsor has applied for and received approval from the department according to subrule (4) of this rule.

(4) Equivalent delivery systems may be used if they are approved as determined by the department.

(5) The real estate school or sponsor shall describe in detail on its application how it will remedy hardware and software failures.

History: 2007 AACCS.

R 339.22607 Program coordinator.

Rule 607. Each real estate school or sponsor shall designate at least 1 individual as coordinator. The coordinator shall be responsible for supervising the program of courses and assuring compliance with the code and these rules.

History: 1991 AACCS; 2007 AACCS.

R 339.22609 Instructors.

Rule 609. (1) Each instructor shall be approved as determined by the department before teaching any real estate course. Instructors who meet the criteria in R 339.22101 (m) (i), (ii), or (iii) shall be deemed approved by the department.

(2) Instructors shall be responsible for all of the following:

- (a) Compliance with all laws and rules relating to real estate education.
- (b) Providing students with current and accurate information.
- (c) Maintaining an environment conducive to learning.
- (d) Assuring and certifying accurate attendance of students enrolled in courses.
- (e) Providing assistance to students and responding to questions relating to course materials.

(f) Attending such workshops or instructional programs as required by the department.

(3) The real estate school or sponsor shall submit to the department the qualifications of each instructor to be used in an approved course not fewer than 60 days before the instructor is scheduled to begin instruction.

History: 1991 AACCS; 1997 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22611 Syllabus.

Rule 611. Students shall be provided with a syllabus which contains, at a minimum, all of the following information:

- (a) The course title.
- (b) The times and dates of the course offering.
- (c) The names, addresses, and telephone numbers of the course coordinator and instructor.
- (d) A detailed outline of the subject matter to be covered.

History: 1991 AACCS.

R 339.22613 Student attendance and makeup policy.

Rule 613. (1) A student shall attend 100% of a course in order to obtain credit for the course.

(2) Credit for a distance learning course requires completion of the entire course.

Completion of the entire course means the number of course hours attended equals the number of hours for which the course is approved.

(3) A real estate school or sponsor shall have a makeup policy for students who are absent from or late in arriving at regularly scheduled class sessions.

History: 1991 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22615 Misleading information.

Rule 615. A real estate school or sponsor shall not provide misleading information. Information is misleading when, taken as a whole, there is a probability that it will deceive the class of persons that it is intended to influence. A real estate school or

sponsor shall not represent that the department's approval is a recommendation or endorsement of the entity to which it is issued or a course of instruction offered by it.

History: 1991 AACCS; 2007 AACCS.

R 339.22617 Denial, suspension, or rescission of approval to offer courses; violation of code or rules.

Rule 617. (1) A real estate school, sponsor or instructor may be subject to the penalties of section 602 of the code, including disciplinary action against a course approval, for any of the following reasons:

(a) Failure to comply with the provisions of the code or these rules.

(b) Revealing or attempting to discover, or soliciting, encouraging, or inducing a person to reveal, the questions on a real estate license examination administered by or on behalf of the department.

(c) Making a substantial misrepresentation regarding a real estate school, sponsor, or course of study.

(d) Making a false promise of a character likely to influence, persuade, or induce regarding a sponsor, real estate school or course of study.

(e) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise.

(2) The department shall have the right to review a course at any time and to summarily suspend course approval, in accordance with section 505 of the code, where the course does not conform to the requirements of the code or these rules or where there is a high rate of failure on a licensing examination indicating lack of competent instruction.

(3) A proprietary real estate school licensed under 1943 PA 148 shall continue to comply with the provisions of the act.

History: 1991 AACCS; 2007 AACCS.

SUBPART 2. PRELICENSURE COURSES

R 339.22631 Application for approval to offer prelicensure courses; forms; required information.

Rule 631. (1) A real estate school shall submit an application for approval, as determined by the department, for prelicensure courses. The application shall include, but not be limited to, all of the following information:

(a) The school name, business address, telephone number, facsimile number, website address, and e-mail address, if applicable.

(b) The course title.

(c) The names, addresses, telephone numbers and qualifications of instructors.

(d) A summary of topics completed for each prelicensure course to be taught, including the number of hours allocated to each topic.

(e) A sample certificate of completion that meets the requirements of R 339.22604(5).

(f) The name of the coordinator.

(g) Methodology for verifying and monitoring attendance.

(2) A change in the information on the application forms shall be reported to the department within 30 days of the change. The department shall accept or reject a change within 60 days of notification of the change.

(3) A real estate school or institution shall demonstrate that it is an entity that may offer prelicensure courses in accordance with section 2504(8) of the code.

(4) In order to maintain course approval, a renewal application approved by the department shall be submitted to the department at least 60 days prior to expiration of the course approval.

History: 1991 AACCS; 1997 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22633 Rescinded.

History: 1991 AACCS; 2002 AACCS.

R 339.22635 Rescinded.

History: 1991 AACCS; 2002 AACCS.

R 339.22637 Rescinded.

History: 1991 AACCS; 2002 AACCS.

R 339.22639 Rescinded.

History: 1991 AACCS; 2007 AACCS.

R 339.22641 Rescinded.

History: 1991 AACCS; 2007 AACCS.

R 339.22643 Determination of compliance with prelicensure educational requirements; submittal of documentation of courses at college or university accredited by nationally recognized agency.

Rule 643. Courses which were undertaken and completed in the principles of real estate or real estate related courses at a college or university or school of law accredited by a nationally recognized accrediting agency may be submitted by an applicant for a broker's or associate broker's license, with suitable documentation concerning the

courses, for consideration in determining that the applicant has met the prelicensure education requirements. This exemption shall not be used to circumvent the requirement of the code that schools and institutions receive approval.

History: 1991 AACCS.

R 339.22645 Approval of prelicensure courses; expiration date.

Rule 645. (1) Approval of prelicensure courses issued by the department to a real estate school shall expire on June 30 of the year in which all real estate licenses expire.

(2) A proprietary real estate school licensed under 1943 PA 148 shall comply with the act to maintain approval of the real estate school under this rule.

History: 1991 AACCS; 2007 AACCS.

R 339.22647 Application for renewal of course approval; receipt; form.

Rule 647. An application for renewal of approval of prelicensure real estate courses shall be received by the department before the expiration of the previous approval and shall be on forms prescribed by the department.

History: 1991 AACCS.

SUBPART 3. CONTINUING EDUCATION COURSES

R 339.22651 Application for approval to offer continuing education courses; forms; required information.

Rule 651. (1) A real estate sponsor shall submit an application for approval, as determined by the department, for continuing education courses offered to real estate broker, associate broker or salesperson licensees. The application shall include all of the following information:

- (a) The sponsor name, business address, telephone number, facsimile number, website address, and e-mail address, if applicable.
- (b) The course title.
- (c) The names, addresses, telephone numbers and qualifications of instructors.
- (d) An outline of the courses to be taught, including the number of hours allocated to each topic. Courses shall be composed of at least 1 of the following categories:
 - (i) Changes in economic conditions.
 - (ii) Changes in laws, court opinions, and rules.
 - (iii) Interpretations relating to and affecting real property.
 - (iv) Any topics relevant to the management, operation, or practice of real estate.
- (e) A sample certificate of completion that meets the requirements of R 339.22604(5).
- (f) The name of the coordinator.
- (g) Methodology for verifying and monitoring attendance.

(2) The sponsor shall submit to the department any changes to an existing approved course. The department shall accept or reject a change within 60 days of notification of the change.

(3) In order to maintain course approval, a renewal application approved by the department shall be submitted to the department at least 60 days prior to expiration of the course approval.

History: 1991 AACCS; 1997 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22652 Approval of continuing education courses; expiration date.

R 652. (1) Approval of continuing education courses issued by the department to a real estate sponsor shall expire on December 31 of the year in which all real estate licenses expire.

History: 2007 AACCS.

R 339.22653 Rescinded.

History: 1991 AACCS; 1997 AACCS.

R 339.22654 Rescinded.

History: 2002 AACCS; 2007 AACCS.

R 339.22655 Rescinded.

History: 1991 AACCS; 1997 AACCS.

R 339.22657 Examinations.

Rule 657. Course examinations shall not be required for continuing education courses unless they are required by the sponsor.

History: 1991 AACCS.

R 339.22659 Attendance.

Rule 659. Credit for completion of a course shall only be granted once in each renewal period, or as part of the requirement to become relicensed, after a license has lapsed.

History: 1991 AACCS; 1997 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22661 Rescinded.

History: 1991 AACCS; 2002 AACCS.

R 339.22663 Rescinded.

History: 1991 AACCS; 2002 AACCS; 2007 AACCS.

R 339.22664 Rescinded.

History: 2002 AACCS; 2007 AACCS

R 339.22665 Credit earned by instructors.

Rule 665. Instructors may earn their continuing education credit for teaching a course.

(a) Credit shall not be earned if the instructor has previously obtained credit for the same course either as a student or an instructor.

(b) Sponsors shall report the instructor's name on the list of students completing the course according to R 339.22604(8), or continuing education credit for the course taught by the instructor shall not be granted by the department.

History: 1991 AACCS; 1997 AACCS; 2007 AACCS.

R 339.22667 Rescinded.

History: 1991 AACCS; 1997 AACCS.