

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Corporations, Securities, & Commercial Licensing

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Procedural Rules

5. Rule numbers or rule set range of numbers:

451.2101 – 451.3503

6. Estimated time frame:

6 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The general purpose of these rules was to provide organization and an administrative process for contested cases under the Uniform Securities Act, 1964 PA 265, MCL 451.501 et seq. (repealed in 2009), the Living Care Disclosure Act, 1976 PA 440, MCL 554.801 et seq. (repealed in 2015), the General Corporation Act, 1931 PA 327, MCL 450.1 et seq., the Professional Service Corporation Act, 1962 PA 192, MCL 450.221 et seq., the Business Corporation Act, 1972 PA 284, MCL 450.1101 et seq., and other statutes listed in R 451.2102 that are or were administered by agencies besides CSCL. Several of these rules and procedures are redundant or obsolete because they are unneeded due to a lack of statutory investigative or administrative prosecution authority or already covered in the Michigan Uniform Securities Act (MUSA), 2008 PA 551, MCL 451.2101 et seq., the Continuing Care Community Disclosure Act, 2014 PA 448, MCL 554.901 et seq., the various entity formation statutes administered by the Corporations Division, the Administrative Procedure Act of 1969 (APA), 1969 PA 306, MCL 24.201 et seq., Part 1 of the Michigan Administrative Hearing System Administrative Hearing Rules, R 792.10101 to R 792.10137, its Contested Case and Declaratory Ruling Procedures, R 324.73 to R 324.81 (MOAHR Rules), and the Securities Rules. Also, LARA confirmed with its Bureau of Construction Codes, the Department of Insurance and Financial Services, and the Department of Attorney General that none of those agencies continue to rely on this ruleset.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 451.2605(1)(a) authorizes the administrator to issue forms and orders and, after notice and comment, adopt and amend rules necessary or appropriate to carry out this act, and repeal rules, including rules and forms governing registration statements, applications, notice filings, reports, and other records.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Executive Reorganization Order No. 1996-2 and No. 2012-6, MCL 445.2001 and MCL 445.2034, and MCL 451.2605(1)(a).

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The rules are not mandated by any applicable constitutional or statutory provision.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

Procedural rules either align or conflict with the processes outlined in the MOAHR Rules, APA, Continuing Care Community Disclosure Act, or MUSA. The business entity formation laws administered by CSCL's Corporations Division do not give it the authority to investigate or prosecute a business entity for violations of those acts or the authority to promulgate rules. The MOAHR Rules and the APA set forth the process and procedures applicable to contested cases involving violations of the MUSA and the Continuing Care Community Disclosure Act, including, but not limited to, declaratory rulings, services of process, opportunities to show compliance, motion practice, and prehearing conferences.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The subject matter of the rules is not contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

These rules are obsolete because they either align or conflict with the processes outlined in the MOAHR Rules, the Administrative Procedures Act, the Continuing Care Community Disclosure Act, or MUSA.