

Michigan Office of Administrative Hearings and Rules

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REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file a RFR with the Michigan Office of Administrative Hearings and Rules (MOAHR) before initiating any changes or additions to the rules. Please submit the RFR to MOAHR-Rules@michigan.gov.

1. Agency Information

Agency name:	Department of Licensing and Regulatory Affairs
Division/Bureau/Office:	Bureau of Professional Licensing
Name, title, phone number, and e-mail of <u>person completing this form</u> :	Dena Marks, Board Analyst 517-335-3679 MarksD1@Michigan.gov

2. Rule Set Information

Title of proposed rule set:	Real Estate Brokers and Salespersons – General Rules
Rule number(s) or range of numbers:	R 339.22101-339.22667
Included in agency's annual regulatory plan as rule to be processed in current year?	Yes.

3. Estimated timetable for completion, or statutory deadline, if applicable:

1 year.

4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

<p>The Real Estate Brokers and Salesperson General Rules pertain to licensure and license renewal for real estate brokers and salespersons and establish requirements for schools offering prelicensure educational programs. The current rules lack criteria regarding the courses approved for prelicensure education. The rules will be revised to establish the criteria for prelicensure courses and will also be revised to update and amend outdated information and provide clarity.</p> <p>The current definitions will be amended to clarify that the code refers to the Occupational Code. Other amendments will be made to provide clarity and to comply with current rule-drafting style requirements.</p> <p>The current rules regarding licensing will be amended to clarify that all statutory requirements must be satisfied and to clarify the rules related to the credits required for prelicensure education for real estate brokers and salespersons. The rules regarding the credits that will be granted toward prelicensure education for brokers who possess certain undergraduate and post-graduate degrees will also be clarified.</p> <p>The current rules regarding the effect of the lapse of a broker's license and the effect of a broker's death or disability will be amended to provide clarity.</p> <p>The current rules related to practice and conduct will be amended to provide clarity and to comply with current rule-drafting style requirements.</p>

The current rules related to real estate education will be amended to provide clarity and to comply with current rule-drafting style requirements. New rules will be added as permitted by MCL 339.2504(3)(a) to establish criteria for approved prelicensure courses.

5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

Rule promulgation authority is permitted by the following: MCL 339.2504 and Executive Order Nos. 1991-9, 1996-2, 2003-01, and 2011-4, MCL 338.3501, MCL 445.2001, MCL 445.2011, and MCL 445.2030.

The department is mandated to promulgate rules necessary and appropriate to enable it to fulfill its role pursuant to MCL 339.205. The board is mandated to promulgate rules necessary and appropriate to fulfill its role pursuant to MCL 339.308.

The rules are not mandated by any constitutional provision.

6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

Each state establishes its own requirements with respect to the licensing requirements of real estate brokers, real estate salespersons, and schools offering real estate education, so there is no federal rule or standard set by a national or state agency that the proposed rules can duplicate or be in conflict with.

7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?

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

8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:

These rules will be promulgated using the full rulemaking process.

9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.

The proposed rules do not incorporate any recommendation of any Advisory Rules Committee.

10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.

The Michigan Board of Real Estate Brokers and Salespersons voted to open the rules at a regularly scheduled board meeting on April 29, 2019.

11. Reviewed by the following Departmental Regulatory Affairs Officer:

Liz Arasim
Department of Licensing and Regulatory Affairs

↓ To be completed by the MOAHR ↓

Date RFR received:8-8-2019

Based on the information in this RFR, the MOAHR concludes that there are sufficient policy and legal bases for approving the RFR.

MOAHR assigned rule set number:	2019-080 LR
Date of approval:	8/9/19

Based on the information in this RFR, the MOAHR is not approving the RFR at this time.

Date of disapproval:	
Explanation:	