

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION CONTRACTORS

(By authority conferred on the board by section 308 of 1980 PA 299, MCL 339.308, and on the director of the department of licensing and regulatory affairs by sections 205 and 2404b of 1980 PA 299, MCL 339.205 and 339.2404b, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 338.3501, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

PART 1. GENERAL

R 338.1511 Rescinded.

History: 1979 AC; 2006 AACCS; 2014 AACCS.

R 338.1512 Rescinded.

History: 1979 AC; 1998-2000 AACCS.

R 338.1519 Rescission.

Rule 19. R 451.501 to R 451.538 of the Michigan Administrative Code, appearing on pages 4594 to 4597 of the 1979 Michigan Administrative Code, are rescinded.

History: 1990 AACCS.

PART 2. LICENSES AND BONDS

R 338.1521 Applications for licenses

Rule 21. (1) If an applicant fails to complete all application requirements, including information requested by the department, and any required examination, within 1 year from date of first making application to the department, then the application shall be void and the application processing fee shall be forfeited.

(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 the examination or portion of the examination was passed.

History: 1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 AACCS; 2014 AACCS.

R 338.1521a Rescinded.

History: 2008 AACCS; ; 2014 AACCS.

R 338.1522 Rescinded.

History: 1979 AC; 1990 AACCS.

R 338.1523 Rescinded.

History: 1979 AC; 1990 AACCS.

R 338.1523a Rescinded.

History: 1979 AC; 1998-2000 AACCS.

R 338.1524 Rescinded.

History: 1979 AC; 2006 AACCS; ; 2014 AACCS.

R 338.1525 Salesperson's license; identification card; discharge; termination or transfer of salesperson; temporary license for salesperson or salesperson license applicant.

Rule 25. (1) A salesperson shall be licensed under a person holding a license as a builder or contractor, but shall not be licensed under more than 1 builder or contractor during the same period of time.

(2) An application for a salesperson license shall be submitted by the employing builder or contractor. An applicant for a salesperson license who is currently licensed as a residential builder or maintenance and alteration contractor, or has been licensed as a residential builder or maintenance and alteration contractor within the past 3 years, shall not be required to take the salesperson examination.

(3) Upon approval, the department shall issue a license and an identification card containing the name and business address of the salesperson. The card shall be carried by the salesperson and shall be shown as identification to every prospective customer. A salesperson shall not commence work until the builder or contractor under whom the salesperson is licensed receives the salesperson's license and identification card from the department.

(4) When a salesperson licensed under this act is discharged or otherwise terminates employment with the builder or contractor under whom he or she is licensed, the builder or contractor shall return the salesperson's license, and the salesperson shall

return the identification card to the department within 5 days from the date of discharge or termination.

(5) When a licensed salesperson transfers employment from the builder or contractor under which he or she is presently licensed to a new employer, the new employer shall submit to the department an application for transfer of the salesperson's license to the new employer.

History: 1979 AC; 2006 AACCS.

R 338.1526 Termination of licenses.

Rule 26. (1) If a bond is cancelled, a license predicated upon such a bond shall be suspended effective upon the date of cancellation, if the licensee has not replaced the surety or cash bond.

(2) Upon final order of license suspension or revocation, the licensee shall surrender the license to the department within 10 days of the date of suspension or revocation. If the license of a builder or contractor is suspended or revoked, the licenses of salespersons issued under the license of that builder or contractor shall lapse, and licenses shall be surrendered at the same time. Any salesperson may have his or her license transferred to another licensed builder or contractor before the expiration date of the salesperson's license.

(3) If the qualifying officer of a corporation, association, partnership, limited liability company or organization consisting of more than 1 person is a party to events that led to suspension or revocation, any license issued to any other organization where the individual is the qualifying officer shall be suspended or revoked and any license issued to the qualifying officer in an individual capacity shall be suspended or revoked.

(4) A qualifying officer of a company shall notify the department in writing within 10 days of ceasing to be the qualifying officer, and shall return the wall license and pocket card of the company.

(5) When a qualifying officer ceases to act as the qualifying officer, and the company intends to continue to operate, the remaining officer, owner, member or partner of the company shall submit a written request to the department to allow the company time to obtain a new qualifying officer.

History: 1979 AC; 2006 AACCS.

PART 3. OPERATIONS OF LICENSEES

R 338.1531 Rescinded.

History: 1979 AC; 2006 AACCS; 2014 AACCS.

R 338.1532 Advertising.

Rule 32. (1) A licensee shall include the name, license number, and actual business address, as shown on the license, in all advertising. The use of a telephone or post office box number alone is prohibited. When sales of new homes are being made by a licensed builder, through a licensed real estate broker, advertisements may indicate the broker's name or both the names of the builder and broker.

(2) A licensee shall not solicit any contract for home improvements by a promise to the purchaser or the prospective purchaser of a bonus, whether of merchandise or cash, which is contingent upon the purchaser's or prospective purchaser's using or displaying a dwelling to a third person or upon the licensee's obtaining an order or orders for merchandise or service from a third person.

History: 1979 AC; 2006 AAC; 2014 AAC.

R 338.1533 Purchase and sales agreements.

Rule 33. (1) All agreements and changes to the agreements between a builder, or contractor, and the customer shall be in writing and signed by the parties. Copies of all agreements and changes to agreements shall be in writing, and provided to the customer.

(2) The builder or contractor shall make certain that the written agreements clearly state the terms of the transaction, including specifications, and when construction is involved, both plans and specifications, including cost, the type and amount of work to be done, and the type and quality of materials to be used.

(3) If a purchase or sales agreement is for a new structure which is either substantially completed or in substantial conformance with a model, plans and specifications need not be furnished if the structure is specifically identified or related to the model and any changes, additions to or subtractions from the model are specifically agreed to and noted in writing.

History: 1979 AC; 2006 AAC.

R 338.1534 Books and records.

Rule 34. A builder or contractor shall keep and maintain a complete, accurate set of books and records.

History: 1979 AC; 2006 AAC; 2014 AAC.

R 338.1535 Financial statements.

Rule 35. Upon notice by the department, a licensee shall submit within 30 days sworn financial statement showing the licensee's current financial status. The notice for a financial statement may be based upon an unsatisfied judgment, a lien filed against the licensee or the department's reasonable belief that the licensee does not have the financial resources to meet contractual obligations. The department's notice shall be in writing and may be served personally on the licensee or by certified mail sent to the

licensee's last known business address on file with the department. A request for an extension of time shall be in writing and may be granted for good and sufficient cause.

History: 1979 AC; 2006 AACs.

R 338.1536 Brokerage.

Rule 36. Acceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor, or acceptance or performance of a contract, other than the sale of real property, procured by anyone not licensed under the act, is prohibited.

History: 1979 AC; 2006 AACs.

PART 5. COMPLAINTS AND HEARINGS

R 338.1551 Complaints; filing.

Rule 51. (1) A complaint must be submitted in a form specified by the department.

(2) Upon receipt of a valid and written complaint, the department shall assign a complaint number, acknowledge the complaint, and forward a copy of the complaint to the licensee. The licensee shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification for the complaint. If a complaint or a portion of the complaint is not acknowledged by the licensee as being justified, then the department shall notify the complainant of the area of disagreement.

(3) If the complaint or the information submitted by the complaining party is incomplete or disputed by the licensee, the department may require the complaining party to furnish additional information. The report must indicate what steps, if any, have been taken by the complaining party, including involvement by any other governmental agency, or any other pertinent information regarding the subject matter of the complaint. Before the department takes any further action, it may obtain a report from local building officials or proper local authorities, and if the department cannot obtain a report from the local building official or proper local authorities, then a person authorized by the department may make an inspection to determine if the complaint is justified.

(4) Failure or refusal by the licensee to correct a structural matter that is materially deficient, dangerous, or hazardous to the owners is presumed to be dishonest or unfair dealing.

(5) All construction, renovations, alterations, or repairs must comply with the Michigan construction code.

History: 1979 AC; 2006 AACs; 2019 MR 1, Eff. Jan. 4, 2019.

R 338.1552 Investigative conferences.

Rule 52. The department, after investigation, may request a licensee to appear at such investigative conference as is necessary to determine whether there is cause

for complaint which would require a hearing on, or dismissal of, the complaint. Notice of a request for a conference shall be in writing and mailed to the address appearing on the license not less than 10 days before the conference and shall set the time and place of the conference. The notice shall be recorded in the file at the time of mailing. Persons interested shall have the right to appear and be represented by counsel. Failure by an individual licensee or qualifying officer of a licensee to appear for the conference may be a basis for suspension, revocation or denial of a license. The department may grant an adjournment if requested by any party to the complaint if the request is made at least 5 days prior to the date assigned for the conference.

History: 1979 AC.

R 338.1553 Disposition of complaints; resolution or settlement.

Rule 53. (1) A complaint may be resolved or settled prior to a conference and the complaint may be closed by the department. If a complaint is resolved or settled by agreement, the licensee shall notify the department in writing thereof. The department shall then notify the complainant that it has received information that the complaint has been resolved or settled. If the complainant takes issue with the licensee's contention the department may investigate further. Resolution or settlement of a complaint shall not be construed as a waiver by the department of its statutory right to take disciplinary action.

(2) The department may dismiss a complaint on its own motion if it determines that the complaint has been resolved, settled, is without merit, or that there is insufficient evidence of a violation of the act.

(3) If the department, after investigation of a complaint, has reason to believe that a licensee is in violation of the statute or the rules, it may recommend to the director that a hearing be held to show cause why the license should not be suspended or revoked.

History: 1979 AC.

R 338.1554 Rescinded.

History: 1979 AC; 1990 AACS.

R 338.1555 Rescinded.

History: 2002 AACS; 2019 MR 1, Eff. Jan. 4, 2019.

PART 6. EDUCATION

R 338.1560 Instructor qualifications.

Rule 60. (1) An instructor of prelicensure courses shall possess either of the following qualifications:

(a) Be qualified under the requirements of section 2404b(4) of the Occupational Code, MCL 339.2404b(4).

(b) Be qualified by experience, education, or both, to supervise and instruct a prelicensure course required under MCL 339.2404b, including at least 1 of the following:

(i) Properly licensed, certified, or approved instructor at a high school, intermediate school district, community college, university, the bureau of construction codes, the Michigan occupational safety and health administration, other government agency, or a proprietary school licensed by the department.

(ii) Currently licensed as a residential builder or maintenance and alteration contractor with at least 3 years of experience in the subject matter being taught.

(iii) Possess equivalent qualifications or relevant expertise in the subject matter being taught.

(2) An individual seeking approval as a prelicensure course instructor shall submit to the department an application on a form provided by the department. In order for the applicant to be approved as a prelicensure course instructor, the application must be approved by the department.

History: 2008 AACCS; 2011 AACCS; 2019 MR 1, Eff. Jan. 4, 2019.

R 338.1562 Prelicensure; school, institution, sponsor, or instructor responsibilities.

Rule 62. (1) The school, institution, sponsor, or instructor, as determined appropriate by the department, shall do all of the following:

(a) Submit to the department the qualifications of each instructor to be used in an approved prelicensure course not fewer than 60 days before the instructor is scheduled to begin instruction. The department may waive this deadline at its discretion.

(b) Issue a certificate of completion to an applicant who successfully completes an approved residential builder or residential maintenance and alteration course. The certificate shall include all of the following information:

(i) Sponsor name.

(ii) Name of the participant.

(iii) Date course was completed.

(iv) Course name, course approval number, and number of hours approved for each area of competency listed in MCL 339.2404b(1) when applicable.

(v) Signature of course instructor.

(c) Retain all course attendance records for a period of 5 years.

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

(a) Compliance with all laws and rules relating to prelicensure and continuing competency courses under the act.

(b) Providing students with current and accurate information.

(c) Maintaining an environment conducive to learning.

(d) Assuring and certifying attendance of students enrolled in courses.

(e) Providing assistance to students and responding to questions relating to course materials.

History: 2008 AACCS; 2011 AACCS.

R 338.1564. Continuing competency; activities; courses; alternate activities; proof of compliance.

Rule 64. (1) Activities demonstrating continuing competency as required under section 2404b of the Occupational Code, MCL 339.2404b, such as courses and alternate activities, may include any of the following:

	Activity and Proof Required	Number of Hours Earned for Activity
a.	Completing any construction code update course approved by the bureau of construction codes and any fire safety or workplace safety course approved or sponsored by the department, and any continuing competency course or activity, regardless of the format in which it is offered, if it is approved or offered for continuing competency credit by either of the following: · Another state board of residential builders or alteration and maintenance contractors, other than this state. · Any national, regional or local home builder association or home builder professional organization. If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the course or activity sponsor or organization showing the licensee's name, number of hours attended, sponsor name, or the name of the organization that approved the continuing competency course or activity, and the date or dates on which the course was held or the activity completed.	One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.
b.	Successful completion of a college or university course. If audited, a licensee shall submit a	A minimum of 15 continuing competency hours may be earned for each semester credit hour earned and a minimum of 12 continuing

	copy of the transcript issued by the college or university showing the number of completed credit hours for the academic course.	competency hours earned for each quarter credit hour earned.
c.	Successful completion of a comprehensive examination being administered by the department or by a third party under contract with the department to offer prelicensure examinations. If audited, a licensee shall submit proof of a passing score on the examination.	Five continuing competency hours may be earned for proof of a passing score on the examination.
d.	Participation in a school-sponsored mentoring program. If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the school showing the licensee's name, name of the school, the date or dates on which the mentoring program was held and attended by the licensee.	Two continuing competency hours may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.
e.	Presenting or attending a seminar, in-house course, workshop, or technical presentation made at a meeting, convention, or conference by a trade association, research institute, risk management entity, manufacturer, supplier, governmental agency, consulting agency, or other entity. If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the sponsor or organizer of the seminar, in-house course, workshop, or technical presentation made at a meeting, convention or conference showing the licensee's name, sponsor name, or the name of the organization, and the date or dates on which the activity was held and attended by the licensee.	One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.
f.	Successfully completing a distance learning course, consistent with the	One continuing competency hour may be earned for each

	requirements of R 338.1566. If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the sponsor or organization of the distance learning course, showing the licensee's name, number of hours attended, sponsor name or the name of the organization that approved the distance learning course, and the date or dates on which the course was held, or the course was completed by the licensee.	qualifying hour of attendance satisfactorily documented by the sponsor or organization.
g.	Teaching, instructing, or presenting a department approved prelicensure course or other course approved under this rule, which is not a part of the licensee's regular job description. If audited, a licensee shall submit a letter issued by the course or activity sponsor or organization confirming a licensee as the teacher, instructor, or presenter of a course, together with a copy of the course syllabus, or other program documentation, showing that licensee is the instructor, the name of the course, and the date or dates the course took place.	One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.
h.	Publication of an article in a trade journal or a regional magazine as an expert in the field. If audited, a licensee shall submit a copy of the publication that identifies the licensee as the author of the publication and the publication acceptance letter showing licensee's name, article name, and date of publication.	Five continuing competency hours may be earned for publishing an article as an expert in the field.
i.	Active participation in an occupational or technical society, state advisory, or review committee. If audited, a licensee shall submit documentation, satisfactory to the	One continuing competency hour may be earned for each qualifying hour of satisfactorily documented attendance.

	department, verifying the licensee's active participation at the meeting.	
j.	Serving as a member or attending a state residential builders and maintenance and alteration contractors board meeting. If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee's attendance at the board meeting.	One continuing competency hour may be earned for each qualifying hour of satisfactorily documented attendance at a state residential builders and maintenance and alteration contractors board meeting.
k.	Serving as a member or attending a state construction code commission meeting. If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee's attendance at the commission meeting.	One continuing competency hour may be earned for each qualifying hour of satisfactorily documented attendance at a state construction code commission meeting.
l.	Participating in a company-sponsored seminar or training that is designed to enhance professional development in the licensee's area of professional practice. If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the company or organization presenting the seminar or training on its behalf, showing the licensee's name, company name or the name of the organization presenting the seminar or training on behalf of the company, subject of the seminar or training, and the date or dates on which the above-referenced seminar or training was held and completed by the licensee.	One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.
m.	Participating in research conducted in conjunction with a college or university, trade association, or manufacturer. If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee's	One continuing competency hour may be earned for each qualifying hour of attendance certified by the sponsor or organization.

	participation in research conducted in conjunction with a college or university, trade association, or manufacturer.	
n.	Participating in a code hearing conducted by the International Code Council or bureau of construction codes. If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee's participation in the code hearing.	One continuing competency hour may be earned for each qualifying hour of attendance at the code hearing.

(2) The subject matter of courses and alternate activities chosen by a licensee must meet the minimum requirements of section 2404b(2) of the Occupational Code, MCL 339.2404b(2), and must be relevant to the licensed occupation, and may include any of the following:

(a) Prelicensure courses in the areas of competency listed in section 2404b(1)(c) of the Occupational Code, MCL 339.2404b(1)(c).

(b) The residential maintenance and alteration contractor crafts and trades listed in section 2404(3) of the Occupational Code, MCL 339.2404(3).

(c) Accounting and safekeeping for monies received from a customer, including requirements of section 1 of 1931 PA 259, MCL 570.151, regarding building contract fund.

(d) Accounting, finance, and taxes.

(e) Personnel management.

(f) Communication and customer service.

(g) Environmental or land use analysis.

(h) Life safety.

(i) Green or sustainable building practices; the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle from siting to design, which may include construction, operation, maintenance, renovation and deconstruction.

(j) Zoning and governance policies and procedures.

(k) Mold, lead, asbestos, or other hazardous material mitigation.

(3) Under section 2404(6) of the Occupational Code, MCL 339.2404(6), the licensee shall maintain documentation that is sufficient to verify participation in a course or activity, and time spent in meeting the continuing competency requirements under the act.

(4) Unless otherwise specified in the rules, the department shall give continuing competency credit based on the length of a qualifying program, with 50 minutes of continuous instruction constituting 1 qualifying hour. One-half-credit of continuing competency will be granted for every additional 25 minutes of instruction, after the first hour of credit is earned. As used in this subrule, "continuous instruction" means education time, not including breakfast, lunch, or dinner periods, coffee breaks, or any other breaks in the program.

History: 2011 AACCS; 2019 MR 1, Eff. Jan. 4, 2019.

R 338.1565 Waiver of continuing competency.

Rule 65. A request for waiver of continuing competency pursuant to section 204(2) of 1980 PA 299, MCL 339.204(2), must be received by the department prior to the expiration date of the license cycle.

History: 2019 MR 1, Eff. Jan. 4, 2019.

R 338.1566 Distance learning; prelicensure; continuing competency.

Rule 66. (1) A distance learning course shall contain all of the following:

(a) A course where instructor and student may be apart and instruction takes place through on-line or electronic media.

(b) A course which includes, but is not limited to, instruction presented through an interactive classroom, job site, computer conferencing, or an interactive computer system and which fulfills the requirements in section 2404b of the act.

(c) Individual modules of interactive instruction which provide access to an instructor, offered through on-line or electronic media.

(d) A list of at least 1 learning objective for each module of instruction. The learning objective or objectives shall ensure the entire content of the course is understood.

(e) A structured learning method that enables the student to attain each learning objective.

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

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

(h) An acceptable method of ensuring that the student achieves the approved hours in the course.

(i) An acceptable method of remedying hardware and software failures.

(j) Documentation demonstrating successful completion of a course.

(2) A prelicensure course may be earned through distance learning.

(3) A continuing competency course or an alternate activity may be earned through distance learning.

History: 2011 AACCS.