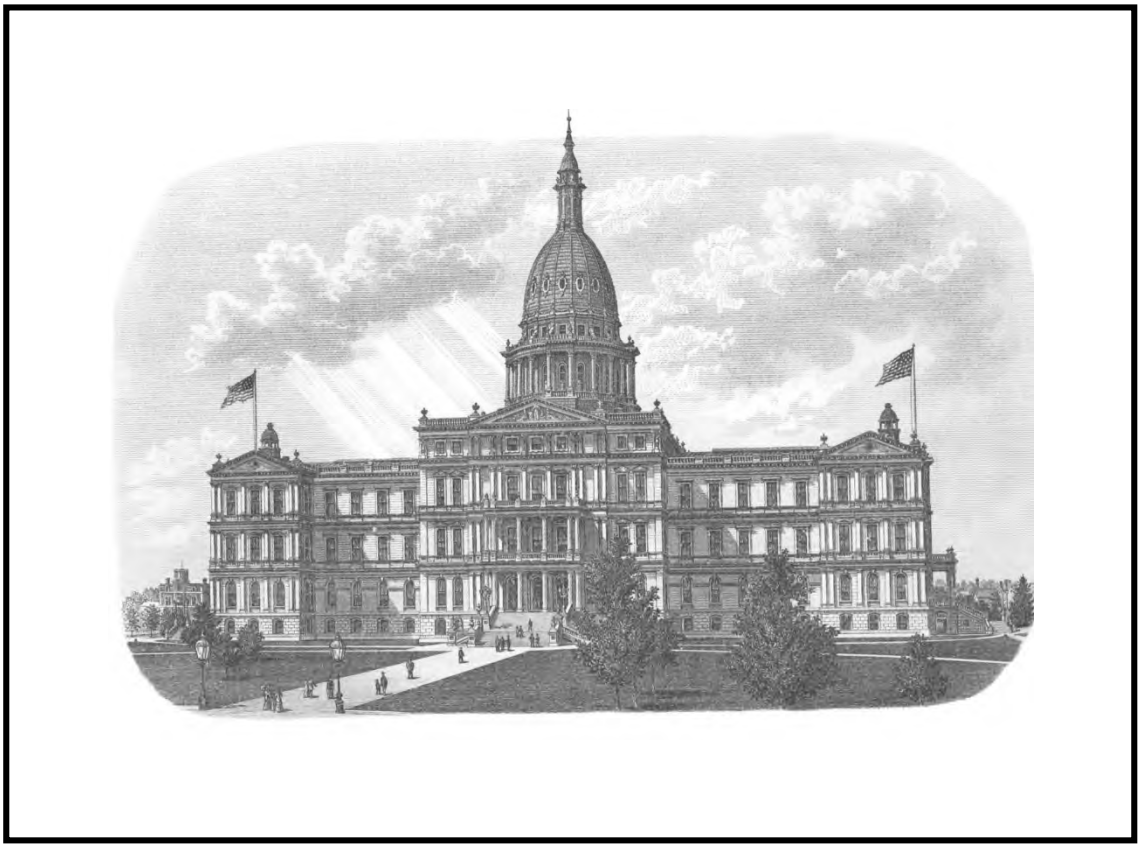
Michigan Register

Issue No. 10 – 2021 (Published June 15, 2021)



GRAPHIC IMAGES IN THE

MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws

Issue No. 10— 2021
(This issue, published June 15, 2021, contains
documents filed from May 15, 2021 to June 1, 2021)

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Gretchen Whitmer, Governor

Garlin Gilchrist, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Michigan Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.

(f) Administrative rules filed with the secretary of state.

(g) Emergency rules filed with the secretary of state.

(h) Notice of proposed and adopted agency guidelines.

(i) Other official information considered necessary or appropriate by the office of regulatory reform.

(j) Attorney general opinions.

(k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

(1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

(2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.

(3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.

(4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.

(5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.

(6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.

(7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).

(8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).

(9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2021 MR 1 refers to the year of issue (2021) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Michigan Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Michigan Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register,* a publication of the State of Michigan, is available for public subscription at a cost of $400.00 per year. Submit subscription requests to: Michigan Office of Administrative Hearings and Rules, Ottawa Building –Second Floor, 611 W. Ottawa Street, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Michigan Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the website of the Michigan Office of Administrative Hearings and Rules – Administrative Rules Division: www.michigan.gov/ard.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Michigan Office of Administrative Hearings and Rules website. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Executive Director,
Michigan Office of Administrative Hearings and Rules

2021 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2021	February 1, 2021
2	February 1, 2021	February 15, 2021
3	February 15, 2021	March 1, 2021
4	March 1, 2021	March 15, 2021
5	March 15, 2021	April 1, 2021
6	April 1, 2021	April 15, 2021
7	April 15, 2021	May 1, 2021
8	May 1, 2021	May 15, 2021
9	May 15, 2021	June 1, 2021
10	June 1, 2021	June 15, 2021
11	June 15, 2021	July 1, 2021
12	July 1, 2021	July 15, 2021
13	July 15, 2021	August 1, 2021
14	August 1, 2021	August 15, 2021
15	August 15, 2021	September 1, 2021
16	September 1, 2021	September 15, 2021
17	September 15, 2021	October 1, 2021
18	October 1, 2021	October 15, 2021
19	October 15, 2021	November 1, 2021
20	November 1, 2021	November 15, 2021
21	November 15, 2021	December 1, 2021
22	December 1, 2021	December 15, 2021
23	December 15, 2021	January 1, 2022
24	January 1, 2022	January 15, 2022

CONTENTS

ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

EMERGENCY RULES

CUMULATIVE INDEX

BILLS SIGNED INTO LAW OR VETOED

ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

"Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state."

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

REAL ESTATE APPRAISERS - GENERAL RULES

Filed with the secretary of state on May 18, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 205, 308, 2605, and 2617 of the occupational code, 1980 PA 299, MCL 339.205, 339.308, 339.2605, and 339.2617, and by Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 338.3501, 445.2001, 445.2011, 445.2025, and 445.2030)

R 339.23101, R 339.23104, R 339.23203, R 339.23205, R 339.23301, R 339.23303, R 339.23307, R 339.23309, R 339.23311, R 339.23313, R 339.23315, R 339.23316, R 339.23317, R 339.23319, R 339.23320, R 339.23321, R 339.23323, R 339.23325, R 339.23326, R 339.23401, R 339.23403, and R 339.23405 of the Michigan Administrative Code are amended, and R 339.23203a, and R 339.23209 are added, as follows:

PART 1. GENERAL PROVISIONS

R 339.23101 Definitions.

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

(a) "Board" means the board of real estate appraisers created under section 2603 of the code, MCL 339.2603.

(b) "Code" means the occupational code, 1980 PA 299, MCL 339.101 to 339.2677.

(c) "Transaction value" means either of the following:

(i) For loans or other extensions of credit, or for sales, leases, purchases, and investments, or in exchanges of real property, the market value of the real property interest involved.

(ii) For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each loan or interest in real property.

(2) Terms defined in articles 1 to 6 and 26 of the code, MCL 339.101 to 339.606 and 339.2601 to 339.2637, have the same meanings when used in these rules.

R 339.23104 Exemption from standard.

Rule 104. The following are exempt from the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP), Standard 3 and Standard 4:

(a) A board member who is performing an investigation or testifying at an adjudicatory hearing on behalf of the department.

(b) A board member who is serving in the capacity of a reviewer while reviewing the work experience of an applicant for licensure.

(c) An investigator employed by or retained by the department who is performing an investigation or testifying at an adjudicatory hearing.

PART 2. LICENSING

R 339.23203 Appraisal experience for licensure; satisfactory evidence.

Rule 203. (1) For a licensure applicant's experience hours to be accepted, the experience must comply with both of the following requirements, as applicable:

(a) Appraisal experience must be demonstrated by copies of reports and file memoranda. The applicant shall submit a detailed log to the department that includes all of the following information:

(i) Date of each appraisal assignment.

(ii) Property address.

(iii) Property type.

(iv) Description of work performed by the applicant.

(v) Scope of the review and supervision of the applicant’s supervisory certified appraiser consistent with the Appraiser Qualification Board (AQB) criteria, as defined in section 2601(b)(i) and (ii) of the code, MCL 339.2601, and R 339.23203a.

(vi) A clear indication of the time devoted to each appraisal.

(b) The information in the log must be documented by work samples, and must include the signature and state certification number of the supervisory certified appraiser.

(2) An applicant for a license shall demonstrate experience gained in each of the following areas of the appraisal process:

(a) Defining the appraisal problem.

(b) Gathering and analyzing data.

(c) Applying all appropriate valuation approaches, including cost approach, market approach, and income approach, and methodology.

(d) Arriving at an opinion of value.

(e) Reporting the opinion of value.

(3) Documents that support the information that is contained in an application, an applicant's experience log, or an affidavit of work experience accepted instead of an experience log before July 1, 2013, must be maintained for not less than 6 years from the date of application.

R 339.23203a Supervisory certified appraiser.

Rule 203a. (1) A supervisory certified appraiser shall comply with the supervisory certified appraiser qualifications in the AQB criteria.

(2) Before supervising, a supervisory certified appraiser shall complete a course that, at a minimum, complies with the specifications for course content established by the AQB criteria.

(3) A supervisory certified appraiser shall not supervise more than 3 real estate appraiser trainees pursuant to the AQB criteria unless written authorization by the department is granted, under subrule (4) of this rule, to exceed the number of trainees at any 1 time.

(4) The department may authorize a supervisory certified appraiser to exceed the maximum number of trainees allowed to be supervised under subrule (3) of this rule, provided all of the following are complied with:

(a) The applicant submits an application on a form provided by the department and approved by the board to the department.

(b) The supervisory certified appraiser submits proof to the department that he or she has complied with the supervisory certified appraiser qualifications in the AQB criteria and has more than 5 years of experience as an appraiser.

(c) The supervisory certified appraiser agrees in his or her application to limit supervision to no more than 6 trainees at any 1 time, with no more than 3 trainees with less than 1 year of experience.

(d) The supervisory certified appraiser prepares and maintains trainee progress reports on each trainee and makes them available to the department until the trainee becomes certified or licensed or after 2 years has lapsed since supervising the trainee, whichever is earlier.

(e) The supervisory certified appraiser provides the department with a mentoring plan for each trainee before supervising the trainee.

R 339.23205 Prior licensing or exemptions; experience in this state.

Rule 205. As required in the code, experience is valid only if an individual was properly licensed or exempt from licensure. In this state, to be properly licensed before January 1, 1992, an individual shall have held a real estate license in this state. Under the standards applicable to the licensing of appraisal services in this state before January 1, 1992, the following positions were considered exempt from real estate licensing:

(a) An employee of a financial institution whose services as an appraiser were performed for the financial institution and not offered to the public.

(b) An employee of an appraisal firm who performed appraisal tasks but did not sign reports.

(c) An employee of a firm whose appraisals were performed for the internal use of the firm and only on property owned or to be purchased by the firm for its own use.

(d) A governmental employee who appraised property for government use or purchase or whose appraisal was required for the operation of a governmental program.

R 339.23209 Nonresident temporary permit.

Rule 209. A holder of a nonresident temporary permit issued by the department pursuant to section 2625(2) of the code, MCL 339.2625, may request 1 extension as follows:

(a)The application shall be in writing on a department form submitted to the department.

(b) The extension shall be for no more than 180 days.

(c) The extension shall be given to finish work on the same temporary assignment that was the subject of the initial temporary permit.

(d) In no case shall a temporary permit be issued for the same assignment for more than 360 days.

PART 3. APPRAISER EDUCATION

R 339.23301 Definitions.

Rule 301. As used in this part:

(a) "Continuing education course" means a course that complies with the AQB criteria for continuing education courses and is approved by the department.

(b) "Coordinator" means an individual who assumes, on behalf of a course sponsor, the responsibility pursuant to these rules for offering courses relating to the activities of real estate appraisers.

(c) "Instructor" means an individual who is determined to be qualified by the sponsor to instruct students or licensees in prelicensure or continuing education courses and who provides instruction directly and interactively in contact with students or licensees. An instructor may utilize guest speakers but shall bear ultimate responsibility to the sponsor for the quality of information imparted to students or licensees.

(d) "Prelicensure course" means a course that complies with the AQB criteria for prelicensure education courses and is approved by the department.

(e) "Sponsor" means an entity that meets the requirements of section 2617(2) of the code, MCL 339.2617, and that offers or proposes to offer either prelicensure appraiser education or continuing education.

R 339.23303 Education; submission of documentation by applicants for licensure.

Rule 303. (1) In submitting documentation of prelicensure education obtained before the effective date of the code or from course sponsors that are not approved pursuant to these rules, the applicant shall show that the course was designed to teach individuals to perform appraisals or to augment a basic knowledge of appraisal with general information that the instructor then relates to the performance of appraisals.

(2) General educational courses, including business, economics, statistics, or law, or general courses in real estate or real estate law is not considered equivalent to approved prelicensure education unless a relationship to appraisal is shown in the course description, syllabus, or curriculum outline to the extent that 15 or more classroom hours were specifically related to appraisal. Classroom hours of credit must only be granted for hours that are specifically related to appraisal.

(3) An applicant's submission of documentation of prelicensure education shall include all of the following information:

(a) The date and place the course was taken.

(b) The name of the sponsor, the sponsor's current address, and the sponsor's telephone number if available.

(c) A copy of the course outline, syllabus, detailed curriculum, or similar information.

(d) A copy of the certificate of completion.

(e) The number of classroom hours spent in the course. To have the education hours approved by the department, continuing education course sponsors utilizing distance-learning systems shall have an acceptable method of ensuring that the licensee achieves an equivalent to classroom hours.

(4) In submitting documentation of education from institutions of higher education that are approved to grant degrees that confer credit hours rather than classroom hours, 1 credit hour is equivalent to 10 classroom hours of actual instruction for term credits and 15 classroom hours of instruction for semester credits.

(5) Documentation to support information on the application for course approval must be maintained for not less than 6 years from the date of the application.

(6) To assist applicants, the department shall maintain a list of courses that are acceptable to the department.

R 339.23307 Conduct of courses.

Rule 307. (1) A course sponsor shall comply with all of the following requirements:

(a) A sponsor shall not represent a course to licensees or to the public as meeting the requirements of the code and these rules until it has been approved by the department.

(b) A person shall not solicit for organizational membership, employment, or business-related products and services during qualifying course classroom hours.

(c) A sponsor shall appoint an individual as coordinator for the sponsor's courses. The coordinator shall be responsible for supervising the program of courses and assuring compliance with the code and these rules. The coordinator need not be a licensee.

(d) An instructor who meets the requirements of R 339.23309(3) and (4) shall teach the course.

(e) Each student or licensee shall be provided with a written syllabus that contains, at a minimum, all of the following information:

(i) The course title.

(ii) The times and dates of the course offering.

(iii) The name, business address, telephone number of the course coordinator, and the name of the instructor.

(iv) A detailed outline of the subject matter to be covered and the estimated time to be devoted to each subject.

(f) A course must not be credited for more than 10 classroom hours of instruction in 1 calendar day. Calculations of classroom hours for a course must not include any of the following:

(i) Meals.

(ii) Breaks.

(iii) Registration.

(iv) Required reading.

(v) Outside assignments.

(g) Each course must reflect the most current version of state and federal laws and regulations.

(h) A sponsor shall permit the department to review a course at any time or to inspect the records of a course sponsor during normal business hours.

(i) A sponsor whose programs are transferred to another entity shall arrange for student or licensee records to be maintained permanently by the successor entity. The successor entity shall ensure that student or licensee records are available to students or licensees who need to verify their education.

(2) A proprietary real estate appraiser sponsor licensed under the proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103 shall continuously comply with the proprietary schools act.

R 339.23309 Sponsors; duties; instructors.

Rule 309. (1) A sponsor shall be responsible for all of the following:

(a) Compliance with all laws and rules relating to appraiser education.

(b) Providing students or licensees with current and accurate information.

(c) Maintaining an atmosphere that is conducive to learning in the classroom.

(d) Ensuring and certifying the attendance of students or licensees who are enrolled in courses.

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

(f) Supervising all guest lecturers and relating all information that is presented to the practice of real estate appraisal.

(2) Distance education sponsors shall ensure that all of the following qualifications for their courses are complied with:

(a) The course must be presented with an instructor available to answer questions, provide information, and monitor student or licensee attendance.

(b) The course must meet 1 of the following criteria:

(i) The course has been presented by an accredited college or university through the Commission on Colleges or a national or regional accreditation association that offers distance education programs in other disciplines.

(ii) The course has received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism and 1 of the following is met:

(A) The course has received approval of the AQB through the AQB course approval program.

(B) The course has received approval of the licensing or certifying jurisdiction where the course is being offered for the content of the course.

(C) The course meets all of the following requirements:

(I) The course is equivalent to 15 classroom hours for prelicensure courses and 2 classroom hours for continuing education courses.

(II) A student or licensee successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization, consistent with the requirements of the course accreditation. If a written examination is not required for accreditation, a student or licensee successfully completes course mechanisms required for accreditation which demonstrate mastery and fluency.

(III) The sponsor ensures that students or licensees completing the distance education courses achieve the equivalent of the stated classroom hours per course.

(3) A sponsor shall select as instructors only individuals who can demonstrate mastery of the material being taught and who possess 1 of the following qualifications:

(a) Experience as a faculty member of an institution of higher education that is approved to grant degrees.

(b) A state licensed, certified residential, or certified general appraiser with 3 years of appraisal experience.

(c) Other experience acceptable to the sponsor for courses other than prelicensure courses.

(4) Instructors of USPAP shall have complied with the AQB instructor certification program as required by the real property AQB criteria.

R 339.23311 Courses, activities not acceptable for prelicensure or continuing education.

Rule 311. The department shall not approve a prelicensure or continuing education course or activity, nor shall it grant credit to a licensee for the USPAP course for any of the following:

(a) Courses that do not provide student or licensee access to an instructor during the course.

(b) Courses that deal with employment-related topics including explanations of rights, benefits, and responsibilities; organizational structure; and on-the-job methods, processes, or procedures.

(c) Membership in or service in an office, or on a committee of a professional, occupational, trade, or industry society or organization.

(d) Conferences, delegate assemblies, or similar meetings of professional organizations for policy-making purposes.

(e) Meetings and conventions of societies and associations; however, educational activities that are provided independently by an approved course sponsor and that are held concurrently with a meeting or convention of societies or associations may be given credit.

(f) Attendance at lecture series, cultural performances, entertainment, or recreational meetings or activities, or participation in travel groups, unless these activities are an integral part of a course that is approved pursuant to these rules.

(g) On-the-job training, apprenticeships, and other work experiences.

(h) Courses in sales promotion, motivation, marketing, psychology, time management, ~~or~~ mechanical office, or business skills, including typing, speed-reading, or the use of office machines or equipment other than calculators or computers.

R 339.23313 Misleading information.

Rule 313. A person, including a sponsor, shall not provide misleading information about courses or any component of a course. Information is misleading when, taken as a whole, there is a probability that it deceives the class of persons that it is intended to influence. A sponsor shall not represent that the department's approval of a course is a recommendation or endorsement of the sponsor or the content of the course.

R 339.23315 Denial, suspension, or rescission of approval to offer courses; violation of code or rules.

Rule 315. A real estate sponsor or instructor is subject to the penalties of section 602 of the code, MCL 339.602, including recission of course approval, for any of the following reasons:

(a) Failure to comply with the provisions of the code or these rules.
(b) Having a high rate of failure on a licensing examination as a result of a lack of competent instruction.
(c) Making a substantial misrepresentation regarding an appraisal education sponsor or course.
(d) Pursuing a continued course of misrepresentation or making false promises through agents, salespersons, advertising or otherwise.

PART 3A. PRELICENSURE EDUCATION

R 339.23316 Prelicensure education.
Rule 316. Prelicensure education courses may be used to obtain credit for both prelicensure education and continuing education. However, the prelicensure exam may not be used toward continuing education hours.

R 339.23317 Prelicensure education; application for course approval; forms; requirements; unacceptable courses.
Rule 317. (1) An application for approval of a prelicensure real estate appraiser education course shall be made on forms provided by the department. The department shall accept or reject the application.
(2) The application shall include all of the following information:
(a) The course title.
(b) The number of classroom hours to be given for completion of the course.
(c) The name, business address, and telephone number of the sponsor.
(d) The name, business address, and telephone number of the course coordinator.
(e) The name, license number, and qualifications of instructors.
(f) A detailed outline of the subject matter to be covered and the number of classroom hours to be devoted to each topic, as it will appear in the student or licensee syllabus.
(g) A summary of the required topics for prelicensure that are covered in the course completed on the subject matter matrix provided by the department.
(h) The methodology for verifying and monitoring attendance, including the class make-up policy. A sponsor shall have a written make-up policy for students or licensees who are absent from all or a part of regularly scheduled class sessions. If there are no opportunities to make up missed sessions, that policy must be stated.
(i) The standards a student or licensee must meet to complete the course, including assignments, projects, examinations, and the passing score on the examination that must be given at the completion of the course for a student or licensee to demonstrate mastery of the material covered.
(j) Proof that the sponsor is an entity that may offer prelicensure real estate appraisal education courses under section 2617(2) of the code, MCL 339.2617.
(3) If a sponsor desires to change a course's content, instructors, speakers, or hours of credit, the sponsor shall reapply for departmental approval of the changes to the course by completing an application for course approval, obtained from the department, not less than 30 days before the date the course is offered to students or licensees.
(4) Emergency changes to instructors and speakers that are unable to be submitted to the department not less than 30 days before the date of the continuing education course may be reviewed by the department if the department determines that the applicant was unable to submit the requested change not less than 30 days before the date of the continuing education course and the request submitted with the change supports the nature of the emergency.

(5) The department shall notify the sponsor whether the proposed course change is approved. The sponsor shall not offer the course with the proposed changes without departmental approval.

(6) The department may determine that a proposed change cannot be made without the submission of additional supporting documentation or that the extent or number of changes requested require the sponsor to complete a new application for approval.

(7) A department-approved course expires 3 years from the date of the course approval, at which time the course approval is subject to renewal. A sponsor shall notify the department of its intent to renew a previously approved course by submitting course renewal forms provided by the department. All of the following apply regarding course renewal:

(a) The completed course renewal forms must be received by the department not less than 60 days before the expiration date.

(b) If completed renewal forms are received by the department not less than 60 days before the expiration date, the course does not expire until reviewed by the department.

(c) If completed renewal forms are received by the department less than 60 days before the expiration date, approval of the course expires on the expiration date.

(d) Course renewal forms are not valid and are not accepted by the department less than 60 days before the expiration date.

(e) Sponsors requesting approval for a course less than 60 days before the expiration date shall complete and submit to the department an application for original course approval.

R 339.23319 Prelicensure education; student or licensee records; permanent record; course completion certificate.

Rule 319. (1) A course sponsor shall establish and permanently maintain a record for each student or licensee. The record must contain all of the following information:

(a) The student's or licensee’s name and address.

(b) The student's or licensee’s date of birth.

(c) The number of classroom hours attended.

(d) The title of the course and the department's course completion number.

(e) The date of course completion.

(f) The student's or licensee’s grade.

(g) The licensee’s real estate appraiser license number, if applicable.

(2) A course sponsor shall issue a certificate of completion to a student or licensee who completes the entire course and receives a passing grade in a prelicensure education course. The certificate must include all of the following information:

(a) The name of the student or licensee.

(b) The name of the sponsor.

(c) The name of the course attended.

(d) The number of classroom hours completed by the student or licensee.

(e) The date of course completion.

(f) The signature of the course coordinator or instructor.

(g) The sponsor number assigned by the department.

(h) The course approval number assigned by the department.

(3) Within 15 business days after the conclusion of a course, a sponsor shall certify to the department the names of students and licensees who complete an approved course in a manner approved by the department.

R 339.23320 Prelicensure requirements for USPAP.

Rule 320. (1) An applicant for licensure shall successfully complete the 15-hour national USPAP course required by the AQB. Equivalency is determined through the AQB course approval program or by an alternate method established by the AQB.

(2) USPAP qualifying education credit shall be awarded only when the class is instructed by at least 1 instructor who is an AQB certified instructor and who is a certified residential real estate appraiser or a certified general real estate appraiser.

PART 3B. CONTINUING EDUCATION

R 339.23321 Continuing education; application for course approval; forms; requirements.

Rule 321. (1) An application for approval of a continuing education course must be made on forms provided by the department. The department shall accept or reject the application.

(2) The completed application forms must be submitted to the department not less than 60 days before the date the course is conducted.

(3) The application shall include, but not be limited to, all of the following information:

(a) The course title.

(b) The number of classroom hours to be given for completion of the course.

(c) The name, business address, and telephone number of the sponsor.

(d) The name, business address, and telephone number of the course coordinator.

(e) The name, license number, and qualifications of instructors.

(f) An outline of the subject matter to be covered and the number of classroom hours to be devoted to each topic, as it will appear in the syllabus.

(g) The methodology for verifying and monitoring attendance. A licensee shall attend the entire course to obtain credit for the course. Credit for a distance learning course requires completion of the entire course. A licensee shall not receive credit for attending the same course more than 1 time during the same license renewal cycle.

(h) The standards a licensee must meet to complete the course, including assignments, projects, or examinations. The sponsor, at its discretion, may give course examinations, but examinations are not required by the code or these rules for continuing education courses.

(i) Proof that the sponsor is an entity that may offer continuing education courses - under section 2617(2) of the code, MCL 339.2617.

(j) Information to demonstrate that the course meets the requirements of the AQB criteria and is designed to improve and maintain the capability of a licensee to perform activities regulated by the code.

(4) Approval is for a term of 3 years from the date that the department approved the course.

(5) An application for renewal of an approved continuing education course shall be made on forms provided by the department. All of the following apply to course renewal:

(a) Course renewal forms must be received by the department not less than 30 days before the approval expiration date.

(b) Course renewal forms are not accepted by the department if submitted less than 30 days before the expiration date.

(c) Sponsors requesting approval for course renewal less than 30 days before the expiration date shall complete and submit to the department an application for original course approval.

(d) If completed renewal forms are received by the department not less than 30 days before the expiration date, the course does not expire until the department reviewed the application and a decision has been made by the department.

(e) If completed renewal forms are not received by the department pursuant to the time frame established by this subrule, the course approval expires on the expiration date.

(6) Subject to subrule (7) of this rule, all changes to the instructors, speakers, course content, or number of continuing education hours to be awarded for an approved continuing education course must be submitted to the department on forms provided by the department not less than 30 days before the date the continuing education course is offered to licensees.

(7) Emergency changes to instructors and speakers that are unable to be submitted to the department not less than 30 days before the date of the continuing education course may be reviewed by the department if the department determines that the applicant was unable to submit the requested change not less than 30 days before the date of the continuing education course and the request submitted with the change supports the nature of the emergency.

(8) The department may revoke the approval status of any approved continuing education course any time the course fails to comply with these rules.

R 339.23323 Continuing education; licensee records; permanent record; course completion certificate.

Rule 323. (1) A course sponsor shall establish and permanently maintain a record for each licensee. The record must contain all of the following information:

(a) The licensee's name, address, and license number.

(b) The number of classroom hours attended.

(c) The title of the course and the date of course completion.

(2) A course sponsor shall issue a certificate of completion to a licensee who successfully completes a continuing education course. The certificate must include all of the following information:

(a) The name of the licensee.

(b) The licensee's license number.

(c) The name of the sponsor.

(d) The name of the course attended.

(e) The number of classroom hours completed by the licensee.

(f) The date of course completion.

(g) The signature of the course coordinator or instructor.

(3) Within 15 business days after a course ends, a sponsor shall certify to the department the names of licensees who completed an approved course by a method or on forms approved by the department.

R 339.23325 Continuing education; course credit for instructors.

Rule 325. Real estate appraisers who are also instructors may earn up to ½ of their required real estate appraiser continuing education credit per license cycle by teaching an approved real estate appraiser course. Credit is granted to an instructor once in a licensing cycle for the same course either as a licensee or as an instructor.

R 339.23326 Continuing education requirements for a licensee.

Rule 326. (1) A licensed appraiser shall successfully complete the 7-hour national USPAP update course, or its equivalent, not less than every 2 years. Equivalency is determined through the AQB course approval program or by an alternate method established by the AQB.

(2) USPAP qualifying education credit is awarded only when the class is taught by at least 1 instructor who is an AQB certified instructor and who is a certified residential real estate appraiser or a certified general real estate appraiser.

(3) Every 2 years, a licensed appraiser shall successfully complete not less than 2 hours of continuing education devoted to this state's appraiser license law and rules.

(4) Credit for attending the board of real estate appraisers meeting pursuant to the AQB criteria requires proof of attendance by submission of the department form with the signature of a board member or department staff person.

(5) The department shall not grant waivers to a licensee who has failed to meet the continuing education requirements.

(6) The department shall not grant deferrals to a licensee, except in the case of an individual returning from active military duty, or an individual impacted by a state or federally declared disaster. The department may allow a licensee returning from active military duty to remain in active status for a period of up to 90 days pending completion of all continuing education requirements. The department may allow a licensee impacted by a state or federally declared disaster that occurs within 90 days before the end of the continuing education cycle to remain in active status for a period of up to 90 days after the end of the licensee's continuing education cycle, pending completion of all continuing education requirements.

PART 4. STANDARDS OF CONDUCT

R 339.23401 Licensee relationship to others participating in preparation of appraisals.

Rule 401. A state licensed or certified residential or certified general real estate appraiser shall not sign an appraisal report for a federally related transaction unless that licensee has performed the appraisal pursuant to USPAP and is properly licensed to perform the assignment. The material participation of any other individual in preparing the report must be acknowledged in the report as required by USPAP regardless of the licensure status of the other individual. The signature of a state-licensed, a certified residential, or a certified general appraiser as a supervisory or co-signing appraiser must not be used to mask the preparation of a report by an individual who is not authorized to sign the report.

R 339.23403 State-licensed real estate appraiser; certified residential real estate appraiser; certified general real estate appraiser; allowed functions.

Rule 403. (1) If a state-licensed real estate appraiser is properly qualified to undertake an assignment, a state-licensed real estate appraiser may perform any of the following appraisal services:

(a) Appraise properties that are not federally related transactions.

(b) Appraise 1 to 4-family residential properties, unless the transaction value is $1,000,000.00 or more or the property is complex and must be appraised by a certified residential or certified general real estate appraiser.

(c) Appraise nonresidential properties for federally related transactions and real estate related financial transactions where the transaction value is less than $250,000.00.

(d) Assist a certified residential or certified general real estate appraiser in the development of an appraisal of a complex residential property or a nonresidential property that is the subject of a federally related transaction, as appropriate. The state- licensed real estate appraiser shall not sign the report. However, the certified residential or certified general real estate appraiser shall acknowledge the specific contributions of the state-licensed real estate appraiser within the appraisal report.

(2) A certified residential real estate appraiser, if properly qualified to undertake an assignment, may perform any of the following appraisal assignments:

(a) Appraise properties that are not federally related transactions.

(b) Appraise 1 to 4-family residential properties without regard to complexity or value.

(c) Appraise nonresidential properties for federally related transactions and real estate related financial transactions where the transaction value is less than $250,000.00.

(d) Assist a certified general real estate appraiser in the development of an appraisal of a nonresidential property that is the subject of a federally related transaction, as appropriate. The certified

residential real estate appraiser shall not sign the report. However, the certified general real estate appraiser shall identify the specific contributions of the certified residential real estate appraiser within the appraisal report.

(3) The licensee allowed to sign the report shall identify all participating licensees and their contributions to the report.

R 339.23405 Advertising.

Rule 405. (1) A licensee shall state the level of license held in all advertising. Merely stating that the person is licensed does not satisfy the provisions of this subrule. However, in a directory listing or similar situation where space is limited, it is sufficient disclosure for a licensee to use the words certified general, certified residential, state-licensed, or limited appraiser, as appropriate, without additional wording.

(2) A licensee shall place his or her license number and license level on all reports and shall produce evidence of licensing upon request by a member of the public or a representative of the department. A license number is not required in advertising material.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Filed with the secretary of state on May 18, 2021

These rules become effective 120 days after filing with the secretary of state

(By authority conferred on the director of the department of licensing and regulatory affairs by section 4 of the Stille-Derossett-Hale single state construction code, 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4, and 2011-4, MCL 445.2011, 445.2025, and 445.2030)

R 408.30701, R 408.30711, R 408.30715, R 408.30717, R 408.30718, R 408.30741c, R 408.30757, and R 408.30791 of the Michigan Administrative Code are amended R 408.30726, R 408.30727, R 408.30729, and R 408.30755 are added, and R 408.30719, and 408.30720 are rescinded as follows:

PART 7. PLUMBING CODE

AMENDMENTS AND ADDITIONS TO BASIC PLUMBING CODE

R 408.30701 Applicable code.

Rule 701. Rules governing the installation, replacement, alteration, relocation, and use of plumbing systems or plumbing materials are those contained in the international plumbing code, 2018 edition, including appendices A, B, C, D, E, F, and G, except for sections 104.2, 104.5 to 104.7, 106.3, 106.3.3, 106.5.5, 106.6.1, 106.6.2, 106.6.3, 107.2.5, 107.2.5.1, 107.2.5.2, 107.2.5.3, 108.3, 109.1, 109.2 to 109.7, 404.2, 404.3, 602.3 to 602.3.5.1, 608.18 to 608.18.8, 712.3.3.1, 712.3.3.2, 715.1 to 715.4, 802.4.3.1, 1106.3, 1106.6, 1301 to 1304.4.2, 1401 to 1403.2.1 and tables 608.18.1, 1106.3, and 1106.6. With the exceptions noted, the code is adopted in these rules by reference. All references to the International Building Code, International Residential Code, International Energy Conservation Code, International Electrical Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Energy Code, Michigan Electrical Code, Michigan Mechanical Code, and Michigan Plumbing Code**,** respectively. The code is available for inspection, and purchase at the Lansing office of the Michigan department of licensing and regulatory affairs, bureau of construction codes for $83.00 for each code book. The code may be purchased from the International Code Council, through the bureau's website at www.michigan.gov/bcc for $83.00 for each code book.

R 408.30711 Title and scope.

Rule 711. Sections 101.1, 101.2, and 101.3 of the code are amended to read as follows:

101.1. Title. This part shall be known as the Michigan plumbing code and is hereinafter referred to as "the plumbing code" or "the code." This part shall control all matters concerning the installation, replacement, alteration, relocation, and use of plumbing systems or plumbing materials as herein defined and shall apply to existing or proposed buildings and structures in the state.

101.2. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, medical gas systems, water supplies, water service, and storm water and sewage disposal in and exiting buildings, shall comply with the requirements of the code. The design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating systems shall conform to the Michigan mechanical code. The design and installation of all fire sprinkler systems and standpipe systems shall conform to the Michigan building code. Water and drainage connections to such installations shall be made in accordance with the requirements of the code.

Exception: Detached 1-and 2-family dwellings and multiple single-family dwellings (townhouses) not more than 3 stories high with separate means of egress and their accessory structures shall comply with the Michigan residential code.

101.3. Intent. The purpose of this code is to establish minimum standards to provide a reasonable level of safety, health, property protection and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, and operation and maintenance or use of plumbing equipment and systems. The act takes precedence over all provisions of this code.

R 408.30715 Permits.

Rule 715. Sections 106.5.3 and 106.5.4 of the code are amended to read as follows:

106.5.3. Expiration. Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by this permit is not commenced within 180 days from the date of such permit, or if the work authorized by this permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before this work may be recommenced, the permit shall be reinstated if the code has not changed. If the code has changed and the work was not started, a new permit shall be first obtained for such work, provided no changes have been made or will be made in the original construction document for this work and provided further that the suspension or abandonment has not exceeded 1 year.

106.5.4. Application and extensions. The authority having jurisdiction may grant a 180-day extension of the original permit time period of 180 days, upon presentation by the permittee of a satisfactory reason for failure to start or complete the work or activity authorized by the permit.

R 408.30717 Right of entry.

Rule 717. Section 104.4 of the code is amended to read as follows:

104.4 Right of entry. If a building or premises is occupied, the code official shall present his or her credentials to the occupant and request entry. If a building or premises is unoccupied, the code official shall first make a reasonable effort to locate either the owner, the owner's authorized agent or other person having care or control of the building or premises and request entry. If entry is refused, the code official has recourse to every remedy provided by law to secure entry.

When a code official has first obtained a proper inspection warrant or other remedy provided by law to secure entry, the owner, owner's authorized agent or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after a proper request is made as provided in this rule, to permit the code official prompt entry into the building or premises to inspect or examine the building or premises pursuant to this code.

R 408.30718 Violation penalties.

Rule 718. Section 108.4 of the code is amended to read as follows:

108.4. Violation penalties. A person who violates a provision of the code, who fails to conform with any of the requirements thereof, or who erects, installs, alters, or repairs plumbing work in violation of the approved construction documents or directive of the enforcing agency, or a permit or certificate

issued under the provisions of the code shall be subject to review and may result in licensing action pursuant to the skilled trades regulation act, 2016 PA 407, MCL 339.5101 to 339.5517.

R 408.30719 Rescinded.

R 408.30720 Rescinded.

R 408.30726 Building sewer.

Rule 726. Table 702.3 and section 703.1 of the code are amended to read as follows:

Table 702.3
BUILDING SEWER PIPE

MATERIAL	STANDARD
Acrylonitrile butadiene styrene (ABS) plastic pipe in IPS diameters, including Schedule 40, DR 22 (PS 200) and DR 24 (PS 140); with a solid, cellular core or composite wall	ASTM D2661; ASTM F628; ASTM F1488; CSA B181.1
Acrylonitrile butadiene styrene (ABS) plastic pipe in sewer and drain diameters, including SDR 42 (PS 20), PS 35, SDR 35 (PS 45), PS 50, PS 100, PS 140, SDR 23.5 (PS 150) and PS 200; with a solid, cellular core or composite wall.	ASTM F1488; ASTM D2751
Cast-iron pipe	ASTM A74; ASTM A888; CISPI 301
Concrete pipe	ASTM C14; ASTM C76; CSA A257.1M; CSA A257.2M
Copper or copper-alloy tubing (Type K or L)	ASTM B75; ASTM B88; ASTM B251
Polyethylene (PE) plastic pipe (SDR-PR)	ASTM F714
Polypropylene (PP) plastic pipe	ASTM F2736; ASTM F2764; CSA B182.13
Polyvinyl chloride (PVC) plastic pipe in IPS diameters, including Schedule 40, DR 22 (PS 200) and DR 24 (PS 140); with a solid, cellular core or composite wall	ASTM D2665; ASTM F891; ASTM F1488
Polyvinyl chloride (PVC) plastic pipe in sewer and drain diameters, including PS 25, SDR 41 (PS 28), PS 35, SDR 35 (PS 46), PS 50, PS 100, SDR 26 (PS 115), PS 140 and PS 200; with a solid, cellular core or composite wall.	ASTM F891; ASTM F1488; ASTM D3034; CSA B182.2; CSA B182.4
Polyvinyl chloride (PVC) plastic pipe with a 3.25-inch O.D. and a solid, cellular core or composite wall	ASTM D2949; ASTM F1488
Polyvinylidene fluoride (PVDF) plastic pipe	ASTM F1673; CSA B181.3
Stainless steel drainage systems, Types 304 and 316L	ASME A112.3.1
Vitrified clay pipe	ASTM C4; ASTM C700

For SI: 1 inch = 25.4 mm.

703.2 Drainage pipe in filled ground. Where a building sewer or building drain is installed on filled or unstable ground, the drainage pipe shall conform to one of the standards for ABS plastic pipe, cast-iron pipe, copper or copper-alloy tubing, or PVC plastic pipe indicated in Table 702.3.

R 408.30727 Water distribution pipe.

Rule 727. Table 605.4 of the code is amended to read as follows:

Table 605.4
WATER DISTRIBUTION PIPE

MATERIAL	STANDARD
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D2846; ASTM F441; ASTM F442; CSA B137.6
Chlorinated polyvinyl chloride/aluminum/chlorinated polyvinyl chloride (CPVC/AL/CPVC)	ASTM F2855
Copper or copper-alloy pipe	ASTM B42; ASTMB302; ASTM B43
Copper or copper-alloy tubing (Type K, WK, L, WL, M or WM)	ASTM B75; ASTM B88; ASTM B251; ASTM B447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F876; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F1281; ASTM F2262; CSA B137.10
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F2769; CSA B137.158
Polypropylene (PP) plastic pipe or tubing	ASTM F2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A312; ASTM A778
Stainless steel pipe (Type 316/316L)	ASTEM A312; ASTEM A778

R 408.30729 Water service pipe.

Rule 729. Table 605.3 and section 609.3 of the code are amended to read as follows:

Table 605.3
Water Service Pipe

MATERIAL	STANDARD
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D1527; ASTM D2282
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D2846; ASTM F441; ASTM F442; CSA B137.6
Chlorinated polyvinyl chloride/aluminum/chlorinated polyvinyl	ASTM F2855

chloride (CPVC/AL/CPVC)	
Copper or copper-alloy pipe	ASTM B42; ASTM B302
Copper or copper-alloy tubing (Type K, WK, L, WL, M or WM)	ASTM B75; ASTM B88; ASTM B251; ASTM B447
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F876; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AS-PEX) pipe	ASTM F1281; ASTM F2262; B137.10
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Polyethylene (PE) plastic pipe	ASTM D2239; ASTM D3035; AWWA C901; CSA B137.11
Polyethylene (PE) plastic tubing	ASTM D2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F1282; CSA B 137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F2769; CSA B137.18
Polypropylene (PP) plastic pipe or tubing	ASTM F2389; CSA B137.11
Polyvinyl chloride (PVC) plastic pipe	ASTM D1785; ASTM D2241; ASTM D2672; CSA B137.3
Stainless steel pipe (Type 304/304L)	ASTM A312; ASTM A778
Stainless steel pipe (Type 316/316L)	ASTM A312; ASTM A778
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D2846; ASTM F441; ASTM F442; CSA B137.6
Chlorinated polyvinyl chloride/aluminum/chlorinated polyvinyl chloride (CPVC/AL/CPVC)	ASTM F2855
Copper or copper-alloy pipe	ASTM B-42; ASTM B302; ASTM B43
Copper or copper-alloy tubing (Type K, WK, L, WL, M or WM)	ASTM B75; ASTM B88; ASTM B251; ASTM B447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F876; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F1281; ASTM F2262; CSA B137.10
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F2769; CSA B137.158
Polypropylene (PP) plastic pipe or tubing	ASTM F2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A312; ASTM A778
Stainless steel pipe (Type 316/316L)	ASTM A312; ASTM A778

609.3 Hot water. Hot water shall be provided to supply all of the hospital fixture, kitchen, and laundry requirements. Special fixtures and equipment shall have hot water supplied at a temperature specified by the manufacturer. The hot water system shall be installed in accordance with section 607.

R 408.30741c Connections to automatic fire sprinkler systems and standpipe systems.

Rule 741c. Section 608.17.4 of the code is amended to read as follows:

608.17.4. Connections to automatic fire sprinkler systems and standpipe systems. The potable water supply to automatic fire sprinkler and standpipe systems shall be protected against backflow by a double check backflow prevention assembly, a double check fire protection backflow prevention assembly, or a reduced pressure principle fire protection backflow prevention assembly.

Exception: Isolation of the water distribution system is not required for deluge, preaction, or dry pipe systems.

R 408.30755 Storm drainage.

Rule 755. Table 1102.4 of the code is amended to read as follows:

TABLE 1102.4
BUILDING STORM SEWER PIPE

MATERIAL	STANDARD
Acrylonitrile butadiene styrene (ABS) plastic pipe in IPS diameters, including Schedule 40, DR 22 (PS 200) and DR 24 (PS 140); with a solid, cellular core or composite wall.	ASTM D2661; ASTM F628; ASTM F1488; CSA B181.1; CSA B182.1
Cast-iron pipe	ASTM A74; ASTM A888; CISPI 301
Concrete pipe	ASTM C14; ASTM C76; CSA A257.1M; CSA A257.2M
Copper or copper-alloy tubing (Type K, L, M or DWV)	ASTM B75; ASTM B88; ASTM B251; ASTM B306
Polyethylene (PE) plastic pipe	ASTM F667; ASTM F2306/F2306; ASTM F2648/F2548M
Polypropylene (PP) plastic pipe	ASTM F2736; ASTM F2764; CSA B182.13
Vitrified clay pipe	ASTM C4; ASTM C700
Stainless steel drainage systems, Type 316L	ASME A112.3.1

R 408.30757 Horizontal drains within building and building sewers.

Rule 757. Sections 708.3, 708.3.4, and 708.3.5 of the code are being added to read as follows:

708.3 Where required. Cleanouts shall be located in accordance with sections 708.3.1, 708.3.3 to 708.3.5.

708.3.1. Horizontal drains within building and building sewers. All horizontal drains within buildings and building sewers shall be provided with cleanouts located not more than 100 feet (30 480 mm) apart.

For underground piping that is more than 10 inches in diameter, manholes shall be provided and located at every major change of direction, grade, elevation, or size of pipe or at intervals of not more than 400 feet (12 1920 mm). Metal covers shall be provided for the manholes and shall be of sufficient weight to meet local traffic and loading conditions.

Within buildings, manhole covers shall be gastight and the manhole shall be vented with not less than a 4- inch (102 mm) pipe.

708.3.3. Changes of direction. Cleanouts shall be installed at each change of direction greater than 45 degrees (0.79 rad) in the building sewer, building drain and horizontal waste or soil lines. Where more

than one change of direction occurs in a run of piping, only one cleanout shall be required for each 40 feet (12 192 mm) of developed length of the drainage piping.

708.3.4. Base of stack. A cleanout shall be provided at the base of each waste or soil stack.

708.3.5. Building drain and building sewer junction. There shall be a cleanout near the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The cleanout at the junction of the building drain and building sewer shall not be required if the cleanout on a 3 – inch (76mm) or larger diameter soil stack is located within a developed length of 10 feet (3048 mm) of the building drain and building sewer connection. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with Section 708.7.

R 408.30791 Definitions.

Rule 791. (1) Section 202 of the code is amended to amend the definition of code official and add the definition of act.

(2) "Act" means the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(3) "Code official" means individual who is registered pursuant to article 10 of the skilled trades regulation act, 2016 PA 407, MCL 339.6001 to 339.6023, and who is authorized to conduct the inspections needed to determine compliance with the provisions of this code. Construction or work that requires a permit shall be subject to inspection by the code official. This construction or work shall remain visible and be accessible for inspection purposes until approved.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF PROFESSIONAL LICENSING

PUBLIC HEALTH CODE—GENERAL RULES

Filed with the secretary of state on June 1, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16194, 16201, and 16221(e)(iv)(B) of the public health code, 1978 PA 368, MCL 333.16145, 333.16194, 333.16201, and 333.16221, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.7001, R 338.7001a, R 338.7002 and R 338.7002b of the Michigan Administrative Code are amended and R 338.7004 is added, as follows:

R 338.7001 Definitions.

Rule 1. As used in these rules:

(a) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(b) "Department" means the department of licensing and regulatory affairs.

(c) “Implicit bias” means an attitude or internalized stereotype that affects an individual’s perception, action, or decision making in an unconscious manner and often contributes to unequal treatment of people based on race, ethnicity, nationality, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, or other characteristic.

(d) “Issue date” means the date that the initial license was granted to the licensee by the department.

(e) “Limitation” means that term as defined in section 16106(4) of the code, MCL 333.16106.

(f) "Stark Law" means section 1877 of part E of title XVIII of the social security act, 42 USC 1395nn.

R 338.7001a Biennial license and registration renewal; expiration.

Rule 1a. (1) The following licenses and registrations expire biennially and must be renewed every 2 years on or before the date indicated:

Acupuncture	Issue date
Audiology	Issue date
Chiropractic	Issue date
Dental Therapy	Issue date
Marriage and family therapy	Issue date
Midwifery	Issue date
Nursing	Issue date
Nursing home administrators	Issue date
Occupational therapy	6/1
Optometry	Issue date

Pharmacy	Issue date
Physical therapy	8/1
Physician's assistants	Issue date
Psychology	Issue date
Respiratory care	1/1
Sanitarians	Issue date
Speech-language pathology	Issue date

(2) A license or registration having a limitation may be renewed for a term less than 2 years.

R 338.7002 Triennial license or registration renewal; expiration.

Rule 2. (1) The following licenses and registrations expire triennially and must be renewed every 3 years on or before the date indicated:

Athletic trainer	Issue date
Counseling	6/1
Dentistry	Issue date
Dental Assistant	Issue date
Dental Hygienist	Issue date
Massage therapy	Issue date
Medicine	Issue date
Osteopathic medicine and surgery	Issue date
Podiatric medicine and surgery	Issue date
Social work	5/1
Veterinary medicine	Issue date

(2) A license having a limitation may be renewed for a term less than 3 years.

R 338.7002b Minimum English language standard.

Rule 2b. (1) Pursuant to section 16174(1)(d) of the code, MCL 333.16174, an applicant seeking licensure or registration must demonstrate a working knowledge of the English language under the minimum standards established by the department.

(2) To demonstrate a working knowledge of the English language, the applicant must establish that he or she meets 1 of the following:

(a) The applicant’s health professional educational program was taught in English.

(b) The applicant supplies transcripts establishing that he or she earned not less than 60 college level credits from an English-speaking undergraduate or graduate school.

(c) The applicant’s credentials and English proficiency have been evaluated and determined to be equivalent to the credentials required in this state by a board-approved credentialing agency.

(d) The applicant obtained a passing score of 650 or higher on the Examination for the Certificate of Competency in English (ECCE) test developed by Michigan Language Assessment, as demonstrated by a certificate of competency or certificate of competency with honors.

(e) The applicant obtained a passing score of 650 or higher on the Examination for the Certificate of Proficiency in English (ECPE) test developed by Michigan Language Assessment, as demonstrated by a certificate of proficiency or certificate of proficiency with honors.

(f) The applicant obtained a total score of not less than 6.5 on the International English Language Testing System (IELTS) Academic test.

(g) The applicant obtained an overall score of not less than 55 on the 4-skill Michigan English Test (MET) developed by Michigan Language Assessment.

(h) The applicant obtained an overall score of not less than 300 on the Occupational English Test (OET).

(i) The applicant obtained a total score of not less than 80 on the Test of English as a Foreign Language Internet-Based Test (TOEFL-IBT) administered by the Educational Testing Service.

R 338.7004 Implicit bias training standards.

Rule 4. (1) Beginning 1 year after promulgation of this rule, an applicant for licensure or registration under article 15 of the code, MCL 333.16101 to 333.18838, except those seeking to be licensed under part 188 of the code, MCL 333.18801 to 333.18838, shall have completed a minimum of 2 hours of implicit bias training within the 5 years immediately preceding issuance of the license or registration.

(2) Beginning 1 year after promulgation of this rule and for every renewal cycle thereafter, in addition to completing any continuing education required for renewal, an applicant for license or registration renewal under article 15 of the code, MCL 333.16101 to 333.18838, except those licensed under part 188 of the code, MCL 333.18801 to 333.18838, shall have completed a minimum of 1 hour of implicit bias training for each year of the applicant's license or registration cycle.

(3) The implicit bias training must be related to reducing barriers and disparities in access to and delivery of health care services and meet all of the following requirements:

(a) Training content must include, but is not limited to, 1 or more of the following topics:

(i) Information on implicit bias, equitable access to health care, serving a diverse population, diversity and inclusion initiatives, and cultural sensitivity.

(ii) Strategies to remedy the negative impact of implicit bias by recognizing and understanding how it impacts perception, judgment, and actions that may result in inequitable decision making, failure to effectively communicate, and result in barriers and disparities in the access to and delivery of health care services.

(iii) The historical basis and present consequences of implicit biases based on an individual's characteristics.

(iv) Discussion of current research on implicit bias in the access to and delivery of health care services.

(b) Training must include strategies to reduce disparities in access to and delivery of health care services and the administration of pre- and post-test implicit bias assessments.

(c) Acceptable sponsors of this training include any of the following:

(i) Training offered by a nationally-recognized or state-recognized health-related organization.

(ii) Training offered by, or in conjunction with, a state or federal agency.

(iii) Training obtained in an educational program that has been approved by any board created under article 15 of the code, MCL 333.16101 to 333.18838, except under part 188 of the code, MCL 333.18801 to 333.18838, for initial licensure or registration or for the accumulation of continuing education credits.

(iv) Training offered by an accredited college or university.

(v) An organization specializing in diversity, equity, and inclusion issues.

(d) Acceptable modalities of training include any of the following:

(i) A teleconference or webinar that permits live synchronous interaction.

(ii) A live presentation.

(iii) Interactive online instruction.

(4) Submission of an application for licensure, registration, or renewal constitutes an applicant's certificate of compliance with the requirements of this rule. A licensee or registrant shall retain documentation of meeting the requirements of this rule for a period of 6 years from the date of applying for licensure, registration, or renewal. The department may select and audit a sample of a licensees or registrants and request documentation of proof of compliance with this rule. If audited by the department, a licensee or registrant shall provide the proof of completion of training, including either of the following:

(a) A completion certificate issued by the training program that includes the date of the training, the program sponsor's name, the title of the program, and licensee's or registrant's name.

(b) A self-attestation by the licensee or registrant that includes the date of the training, the program sponsor's name, the title of the program, and licensee's or registrant's name.

ADMINISTRATIVE RULES

DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

REGULATION NO. 637. PESTICIDE USE

Filed with the secretary of state on May 21, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of agriculture and rural development by section 8325 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8325)

R 285.637.11 of the Michigan Administrative Code is amended, as follows:

R 285.637.11 Commercial notification and posting requirements.

Rule 11. (1) The requirements of this rule do not apply to general-use ready-to-use pesticide.

(2) When making a broadcast, foliar, or space application of pesticides to an ornamental or turf site, other than a golf course or farm production operation, a commercial applicator shall comply with both of the following provisions:

(a) In addition to requirements specified in R 285.637.12(1) and (2), an applicator shall inform a customer that lawn markers should remain posted for 24 hours, after which time the customer should remove the lawn markers.

(b) Immediately following the application, a commercial applicator shall place a lawn marker sign at the primary point or points of entry. Lawn markers specified in this subrule (2) must only be used when making pesticide applications and must comply with all of the following specifications:

(i) Be 4 inches high by 5 inches wide.

(ii) Be constructed of rigid, weather-resistant material.

(iii) Be attached to a supporting device with the bottom of the marker extending not less than 12 inches above the turf.

(iv) Be identically printed on both sides in green letters on a white background using the indicated point type size.

(v) Include only the following information:

(A) The statement "CAUTION" in 11/16-inch high (72-point) type.

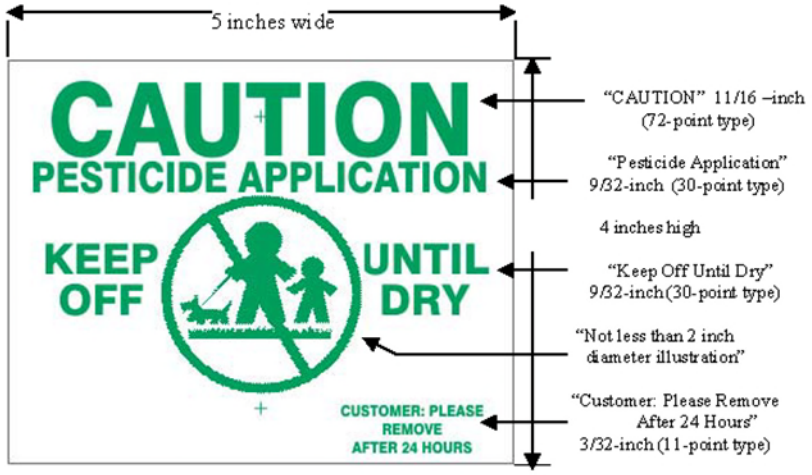
(B) The statement "Pesticide Application" in 9/32-inch (30-point) type.

(C) The statement "Keep Off Until Dry" in 9/32-inch (30-point) type.

(D) Have not less than a 2-inch diameter circular illustration that depicts an adult and child walking a dog on a leash. The illustration must depict, using a diagonal line across the circle, that this action is prohibited.

(E) The statement "Customer: Please Remove After 24 Hours" in 3/32-inch (11-point) type.

(F) Additional information not required under this subrule may only be placed on the lawn marker or supporting device with the written approval of the department.



(3) All broadcast, foliar, or space pesticide applications that are made to public or private golf courses by a commercial applicator must comply with all of the following provisions:

(a) Applicators shall notify users of, or visitors to, the golf course in accordance with all of the following requirements:

(i) Notification of pesticide application must be provided on a poster or placard that is constructed of all-weather material.

(ii) The poster or placard must contain a general statement that from time to time pesticides are in use in the management of turf and ornamental pests.

(iii) The poster or placard must state that questions or concerns that arise in relation to the pesticide application must be directed to the golf course superintendent or his or her designated representative.

(iv) The poster or placard must state that, upon request, the superintendent or his or her representative will supply the information specified in subdivision (b) of this subrule.

(v) The poster or placard must be displayed prominently in the pro shop, locker rooms, or registration area.

(b) At the time of broadcast, foliar, or space pesticide application to golf course property, the applicator shall post on the first and tenth tees, in a conspicuous place, a sign that states all of the following information:

(i) The date and time of application.

(ii) The common name of the pesticide applied.

(iii) The areas treated.

(iv) The label reentry precautions.

(v) The name of a person who may be contacted for further information.

(c) Posting requirements must remain in effect until specific label reentry requirements have been fulfilled.

(4) A commercial applicator who makes a broadcast, foliar, or space insecticide application in a commercial building, public building, or health care facility shall comply with all of the following:

(a) The applicator shall, upon completion of an insecticide application, provide a sign to be displayed in a readily observable place at the primary point of entry by the building manager.

(b) The applicator shall instruct the building manager that the sign must be displayed and remain posted for not less than 48 hours after the most recent application of an insecticide.

(c) The building manager shall post all signs provided by the applicator in accordance with this subrule.

(d) Signs that are used for posting must comply with the following specifications:

(i) The sign shall be a minimum of 2 1/2 inches high by 2 1/2 inches wide.

(ii) Information must be in black letters on a muted background.

(iii) The sign must have an illustration that is not less than 1 3/4 inches high by 2 inches wide that depicts a cloud symbol encompassing a house. This illustration shall serve to inform the public that insecticides have been applied in the building.

(iv) The sign must have a space provided in which the date of application is to be indicated by the applicator. This information must read: "DATE _____" in a minimum 1/8-inch (16-point) type.

(5) All of the following provisions apply to notification requirements for community or right-of-way applicators:

(a) A commercial applicator shall not make a broadcast or foliar application of pesticides for community or right-of-way pest management without making documented efforts to provide prior notification to persons who own or reside on property that is within the target area or to their authorized representatives. Prior notification shall be provided by the commercial applicator or his or her agent.

(b) Documented efforts to notify property owners, their agents, or persons who own or reside on property that is within the target area for community mosquito control pesticide applications include at least 1 of the following methods:

(i) Personal contact.

(ii) A comprehensive community outreach program, which must be filed annually with the director.

(iii) Prior written notification.

(c) Commercial applicators who make community pesticide applications for mosquito control shall do all of the following:

(i) Provide prior notification to persons who request it.

(ii) Exclude mosquito pesticide applications from the property of those persons who request to be excluded.

(iii) Provide general information or literature about the pesticide application in response to inquiries within the targeted community. This does not include any proprietary or confidential business information.

(d) Reasonable efforts to notify property owners, their agents, or persons residing within the target area for right-of-way or community pesticide applications other than those for mosquito control must include at least 1 of the following methods:

(i) Personal contact.

(ii) Advertisement in at least 1 newspaper of general circulation within the area of application. The notice must be placed in the legal advertisement section.

(iii) Prior written notification.

(e) Notification of property owners must include all the following information:

(i) The name, address, and phone number of the application firm or individual.

(ii) The brand name and active ingredients of the pesticide or pesticides used.

(iii) The method of application.

(iv) The scheduled date or dates of application.

(v) The name, address, and phone number of a person who may be contacted and who is responsible for supplying updated information concerning the application for those people who request it.

(vi) Any reentry restrictions.

(f) Multiple-use areas must be posted for not less than 24 hours at the primary point or points of entry immediately after a pesticide application has occurred within the area. The posting must state all of the following information:

(i) The name, address, and phone number of the application firm or individual.

(ii) The brand name and active ingredients of the pesticide or pesticides used.

(iii) The date of the application.

(iv) Precautionary warnings or reentry restrictions that appear on the label of the pesticide or pesticides that are applied.

(g) Upon petition, the director may exempt community or area-wide applicators from the requirements of subdivision (f) of this subrule if there is sufficient documentation to indicate that residues of a particular pesticide are not detectable after application.

(h) Upon a determination by the director of the Michigan department of health and human services that an imminent danger to the health or lives of individuals exists in this state, the director shall cooperate and provide assistance and recommendations to eliminate or mitigate the danger. The director may waive or modify notification and exclusion requirements of this rule to facilitate response.

ADMINISTRATIVE RULES

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

CREDIT FOR REINSURANCE

Filed with the secretary of state on May 18, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of insurance and financial services by sections 210, 1103, and 1106 of the insurance code of 1956, 1956 PA 218, MCL 500.210, 500.1103, and 500.1106, and Executive Reorganization Order No. 2013-1, MCL 550.991)

R 500.1122, R 500.1123, R 500.1124, R 500.1125, R 500.1127, R 500.1128, R 500.1130, R 500.1131, R 500.1132, and R 500.1133 of the Michigan Administrative Code are amended, and R 500.1134 is added, as follows:

R 500.1122 Definitions.

Rule 2. (1) As used in these rules:

(a) “Beneficiary” means the entity for whose sole benefit a trust or letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(b) “Code” means the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(c) “Department” means the Michigan department of insurance and financial services.

(d) “Director” means the director of the department.

(e) “Grantor” means the entity that has established a trust for the sole benefit of the beneficiary. When a trust is established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

(f) “Liabilities” means the assuming insurer’s gross liabilities attributable to reinsurance ceded by United States domiciled insurers**,** excluding liabilities that are otherwise secured by acceptable means, and includes all of the following:

(i) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance all of the following:

(A) Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer.

(B) Reserves for losses reported and outstanding.

(C) Reserves for losses incurred but not reported.

(D) Reserves for allocated loss expenses.

(E) Unearned premiums.

(ii) For business ceded by domestic insurers authorized to write life, health, and annuity insurance all of the following:

(A) Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums.

(B) Aggregate reserves for accident and health policies.

(C) Deposit funds and other liabilities without life or disability contingencies.

(D) Liabilities for policy and contract claims.

(g) "NAIC" means the National Association of Insurance Commissioners.

(h) "Obligations" means any of the following:

(i) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer.

(ii) Reserves for reinsured losses reported and outstanding.

(iii) Reserves for reinsured losses incurred but not reported.

(iv) Reserves for allocated reinsured loss expenses and unearned premiums.

(i) "Solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure that is subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis and that may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

(2) A term defined in the code has the same meaning when used in these rules.

R 500.1123 Conditions applicable to a reinsurance agreement in conjunction with a trust agreement under section 1105 of the code, MCL 500.1105.

Rule 3. (1) A reinsurance agreement that is entered into in conjunction with a trust agreement under section 1105 of the code, MCL 500.1105, may contain any of the following provisions:

(a) A requirement that the assuming insurer enter into a trust agreement, establish a trust account for the benefit of the ceding insurer, and specify what the agreement is to cover.

(b) A stipulation that assets deposited in the trust account must be valued according to their current fair market value and consist only of cash (United States legal tender), certificates of deposit issued by a United States bank and payable in United States legal tender, and investments of the types permitted by chapter 9 of the code, MCL 500.901 to 500.947, or any combination of cash, certificates of deposit, or investments specified in this subrule, if the investments are issued by an entity that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. If a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, then the trust agreement may contain the provisions required by this subdivision instead of including the provisions in the reinsurance agreement.

(c) A requirement that the assuming insurer, before depositing assets with the trustee, execute assignments or endorsements in blank or transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, so that the ceding insurer, or the trustee upon the direction of the ceding insurer, may, if necessary, negotiate the assets without the consent or signature from the assuming insurer or any other entity.

(d) A requirement that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent.

(e) A stipulation that the assuming insurer and the ceding insurer agree that the assets in the trust account established pursuant to the provisions of the reinsurance agreement may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and must be used and applied by the ceding insurer or its successors in interest by operation of law, including, without limitation, any liquidator, rehabilitator, receiver, or conservator of the company, without

diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for 1 or more of the following purposes:

(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellation of the policies.

(ii) To pay or reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement.

(iii) To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(iv) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(2) The reinsurance agreement may also do any of the following:

(a) Give the assuming insurer the right to seek approval from the ceding insurer, which must not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer the assets to the assuming insurer, if either of the following provisions is satisfied:

(i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets that have a current fair market value equal to the market value of the assets withdrawn so as to maintain, at all times, the deposit in the required amount.

(ii) After withdrawal and transfer, the current fair market value of the trust account is not less than 102% of the required amount.

(b) Provide for the return of any amount withdrawn in excess of the actual amounts required under subrule (1)(e) of this rule.

(c) Provide for interest payments, at a rate that is not more than the prime rate of interest, on the amounts held pursuant to subrule (1)(e) of this rule.

(d) Permit the award by any arbitration panel or court of competent jurisdiction of any of the following:

(i) Interest at a rate different from that provided in subdivision (c) of this subrule.

(ii) Court or arbitration costs.

(iii) Attorney fees.

(iv) Any other reasonable expenses.

(3) A trust agreement that complies with these rules may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the director if established on or before the date of filing of the financial statement of the ceding insurer. Further, the amount of the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but the reduction must not be more than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(4) Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence before July 1, 1996, is acceptable until June 30, 1997, at which time the agreements must be in full compliance with this rule for the trust agreement to be acceptable.

(5) The failure of any trust agreement to specifically identify the beneficiary must not be construed to affect any actions or rights that the director may take or possess pursuant to the laws of this state.

R 500.1124 Letters of credit under section 1105 of the code, MCL 500.1105.

Rule 4. (1) A letter of credit used to reduce any liability for reinsurance ceded to an unauthorized reinsurer under section 1105 of the code, MCL 500.1105, must be clean, irrevocable, unconditional, and

issued or confirmed by a qualified United States financial institution. The letter of credit must contain an issue date and date of expiration and stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document needs to be presented. The letter of credit must also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself must not contain reference to any other agreements, documents, or entities, except as provided in R 500.1125(1).

(2) The heading of the letter of credit may include a boxed section that contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section must be clearly marked to indicate that the information is for internal identification purposes only.

(3) The letter of credit must contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is not contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit must be for at least 1 year and contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" must provide for a period of not less than 30 days' notice before the expiration date or nonrenewal of the letter of credit.

(5) The letter of credit must state whether it is subject to and governed by the laws of this state, publication 600 of the International Chamber of Commerce entitled the Uniform Customs and Practice for Documentary Credits (UCP 600), or publication 590 of the International Chamber of Commerce entitled International Standby Practices (ISP 98), or any successor publication, and all drafts drawn thereunder must be presentable at an office in the United States of a qualified United States financial institution.

(6) If the letter of credit is made subject to publication 600 of the International Chamber of Commerce entitled the Uniform Customs and Practice for Documentary Credits (UCP 600), or publication 590 of the International Chamber of Commerce entitled International Standby Practices (ISP 98), or any successor publication, then the letter of credit must specifically address and make provision for an extension of time to draw against the letter of credit if 1 or more of the occurrences specified in article 36 of publication 600, or any successor publication, occur.

(7) If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subrule (1) of this rule, then both of the following additional requirements must be met:

(a) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts.

(b) The "evergreen clause" must provide for 30 days' notice before the expiration date or nonrenewal of the letter of credit.

R 500.1125 Conditions applicable to reinsurance agreement in conjunction with letter of credit under section 1105 of the code, MCL 500.1105.

Rule 5. (1) A reinsurance agreement in conjunction with which a letter of credit is obtained under section 1105 of the code, MCL 500.1105, may contain any of the following provisions:

(a) A requirement that the assuming insurer provide letters of credit to the ceding insurer and specify what they are to cover.

(b) A stipulation that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and must be utilized by the ceding insurer or its successors in interest only for 1 or more of the following reasons:

(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement, of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies.

(ii) To pay or reimburse the ceding insurer for the assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement.

(iii) To pay or reimburse the ceding insurer in an amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(iv) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days before the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States financial institution apart from its general assets, in trust for those uses and purposes specified in paragraphs (i) to (iii) of this subdivision as may remain after withdrawal and for any period after the termination date.

(c) A requirement that all of the provisions of this subrule must be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) Nothing contained in subrule (1) of this rule precludes the ceding insurer and assuming insurer from providing for either or both of the following:

(a) An interest payment, at a rate not more than the prime rate of interest, on the amounts held pursuant to subrule (1)(b) of this rule.

(b) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for subrule (1)(b) of this rule, or any amounts that are subsequently determined not to be due.

R 500.1127 Reinsurance contract.

Rule 7. Credit must not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of section 1103 of the code, MCL 500.1103, not including section 1103(5), or section 1105 of the code, MCL 500.1105, and applicable rules, or otherwise in compliance with section 1103 of the code, MCL 500.1103, after the effective date of these rules, unless the reinsurance agreement includes all of the following:

(a) A proper insolvency clause**,** which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company.

(b) A provision pursuant to section 1103 of the code, MCL 500.1103, whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be served, and has agreed to abide by the final decision of the court or panel.

R 500.1128 Contracts affected.

Rule 8. All new and renewal reinsurance transactions entered into on or after January 1, 2019 must conform to the requirements of the code and these rules if credit is to be given to the ceding insurer for the reinsurance.

R 500.1130 Credit for reinsurance; reinsurer licensed in this state.

Rule 10. Pursuant to section 1103(1) of the code, MCL 500.1103, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in this state as of any date on which statutory financial statement credit for reinsurance is claimed.

R 500.1131 Credit for reinsurance; certified reinsurers.

Rule 11. (1) Pursuant to section 1103(6) of the code, MCL 500.1103, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this rule. The credit allowed must be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the director. The security must be in a form consistent with sections 1103(6) and 1105 of the code, MCL 500.1103 and MCL 500.1105, and the requirements, as applicable, under R 500.1123, R 500.1124, R 500.1125, R 500.1126, and R 500.1133. The amount of security required in order for full credit to be allowed must correspond with the following requirements:

Ratings	Security Required
Secure—1	0%
Secure—2	10%
Secure—3	20%
Secure—4	50%
Secure—5	75%
Vulnerable—6	100%

(2) Affiliated reinsurance transactions must receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(3) The director shall require the certified reinsurer to post 100% security, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer must not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the director. The one-year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

(a) Line 1: Fire.
(b) Line 2: Allied Lines.
(c) Line 3: Farmowners multiple peril.
(d) Line 4: Homeowners multiple peril.
(e) Line 5: Commercial multiple peril.
(f) Line 9: Inland Marine.
(g) Line 12: Earthquake.
(h) Line 21: Auto physical damage.

(5) Credit for reinsurance under this rule only applies to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into before the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, is only subject to this rule with

respect to the losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(6) Nothing in this rule prohibits the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this rule.

(7) The director shall post notice on the department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The director may not take final action on the application until at least 30 days after posting the notice required by this subrule.

(8) The director shall issue written notice to an assuming insurer that has applied and been approved as a certified reinsurer. The notice must include the rating assigned the certified reinsurer pursuant to subrules (1) to (6) of this rule. The director shall publish a list of all certified reinsurers and their ratings.

(9) In order to be eligible for certification, the assuming insurer shall meet all of the following requirements:

(a) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to subrule (15) of this rule.

(b) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000.00 calculated pursuant to subrule (10)(h) of this rule. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least $250,000,000.00 and a central fund containing a balance of at least $250,000,000.00.

(c) The assuming insurer must maintain financial strength ratings from 2 or more rating agencies considered acceptable by the director. These ratings must be based on interactive communication between the rating agency and the assuming insurer and must not be based solely on publicly available information. These financial strength ratings will be one factor used by the director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include all of the following:

(i) Standard & Poor's.

(ii) Moody's Investors Service.

(iii) Fitch Ratings.

(iv) A.M. Best Company.

(v) Any other nationally recognized statistical rating organization.

(d) The certified reinsurer must comply with any other requirements reasonably imposed by the director.

(10) Each certified reinsurer must be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, all of the following:

(a) The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least 2 financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification.

Ratings	Best	S&P	Moody's	Fitch
Secure—1	A++	AAA	Aaa	AAA
Secure—2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-

Secure—3	A	A+, A	A1, A2	A+, A
Secure—4	A-	A-	A3	A-
Secure—5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable—6	B, B-C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

(b) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

(c) For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).

(d) For certified reinsurers not domiciled in the United States, a review annually of a form approved by the director.

(e) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

(f) Regulatory actions against the certified reinsurer.

(g) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision (h) of this subrule.

(h) For certified reinsurers not domiciled in the United States, audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the director will consider audited financial statements for the last 2 years filed with its non-United States jurisdiction supervisor.

(i) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

(j) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, that involves United States ceding insurers. The director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

(k) Any other information considered relevant by the director.

(11) Based on the analysis conducted under subrule (10)(e) of this rule of a certified reinsurer's reputation for prompt payment of claims, the director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers as long as the director, at a minimum, increases the security the certified reinsurer is required to post by 1 rating level under subrule (10)(a) of this rule if the director finds either of the following:

(a) More than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and exceed $100,000.00 for each cedent.

(b) The aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by 90 days or more exceeds $50,000,000.00.

(12) The assuming insurer must submit a properly executed form approved by the director as evidence of its submission to the jurisdiction of this state, appointment of the director as an agent for service of process in this state, and agreement to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final

United States judgment. The director shall not certify any assuming insurer that is domiciled in a jurisdiction that the director has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(13) The certified reinsurer must agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that are not otherwise public information subject to disclosure are exempted from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and must be withheld from public disclosure. The applicable information filing requirements include all of the following:

(a) Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing the changes and the reasons for the changes.

(b) Annually, the filing of a form approved by the director.

(c) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision (d) of this subrule.

(d) Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last 2 years filed with the certified reinsurer's supervisor.

(e) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

(f) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level.

(g) Any other information that the director may reasonably require.

(14) All of the following apply to a change in rating or revocation of certification, as applicable:

(a) In the case of a downgrade by a rating agency or other disqualifying circumstance, the director shall upon written notice assign a new rating to the certified reinsurer pursuant to the requirements of subrule (10)(a) of this rule.

(b) The director has the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this rule, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(c) If the rating of a certified reinsurer is upgraded by the director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the director, the director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(d) Upon revocation of the certification of a certified reinsurer by the director, the assuming insurer shall post security pursuant to section 1105 of the code, MCL 500.1105, in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust pursuant to section 1103(4) of the code, MCL 500.1103, and R 500.1132, the director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of 3 months for all

reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the director to be at high risk of uncollectibility.

(15) All of the following apply to the recognition of a jurisdiction as a qualified jurisdiction:

(a) If, upon conducting an evaluation under this rule with respect to the reinsurance supervisory system of any non-United States assuming insurer, the director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the director shall publish notice and evidence of such recognition in an appropriate manner. The director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(b) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The director shall determine the appropriate approach for evaluating the qualifications of those jurisdictions and create and publish a list of jurisdictions for which reinsurers may be approved by the director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the director, include, but are not limited to, all of the following:

(i) The framework under which the assuming insurer is regulated.

(ii) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(iii) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(iv) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(v) The domiciliary regulator’s willingness to cooperate with United States regulators in general and the director in particular.

(vi) The history of performance by assuming insurers in the domiciliary jurisdiction.

(vii) Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction is not considered to be a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.

(viii) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

(ix) Any other matters considered relevant by the director.

(c) A list of qualified jurisdictions is published through the NAIC committee process. The director shall consider this list in determining qualified jurisdictions. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification with respect to the criteria provided under subdivision (b)(i) to (ix) of this subrule.

(d) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program must be recognized as qualified jurisdictions.

(16) All of the following apply to the recognition of certification issued by an NAIC accredited jurisdiction:

(a) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the director has the discretion to defer to that jurisdiction’s certification, and to defer to the rating

assigned by that jurisdiction, if the assuming insurer submits a properly executed form approved by the director and additional information as the director requires. The assuming insurer must be considered to be a certified reinsurer in this state.

(b) Any change in the certified reinsurer's status or rating in the other jurisdiction applies automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the director of any change in its status or rating within 10 days after receiving notice of the change.

(c) The director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating pursuant to subrule (14)(a) of this rule.

(d) The director may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the director suspends or revokes the certified reinsurer's certification under subrule (14)(a) of this rule, the certified reinsurer's certification remains in good standing in this state for a period of 3 months, which must be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

(17) In addition to the clauses required under R 500.1127, reinsurance contracts entered into or renewed under this rule must include a proper funding clause requiring the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this rule for reinsurance ceded to the certified reinsurer.

(18) The director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

R 500.1132 Requirements for assets deposited in trusts established under section 1103 of the code, MCL 500.1103; specific security provided under section 1105 of the code, MCL 500.1105.

Rule 12. (1) Assets deposited in trusts established pursuant to section 1103 of the code, MCL 500.1103, and this rule must be valued according to their current fair market value and consist only of 1 or more of the following:

(a) Cash in United States dollars.

(b) Certificates of deposit issued by a qualified United States financial institution.

(c) Clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States financial institution.

(d) Investments of the type specified in this rule if the investments meet all of the following criteria:

(i) Investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust does not exceed 5% of total investments.

(ii) No more than 20% of the total of the investments in the trust are foreign investments authorized under subrule (2)(a)(v), (c), (d)(ii), or (e) of this rule, and no more than 10% of the total of the investments in the trust are securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in United States dollars and representing rights conferred by a foreign security must be classified as a foreign investment denominated in a foreign currency.

(2) The assets of a trust established to satisfy the requirements of section 1103 of the code, MCL 500.1103, must be invested only in 1 or more of the following investments:

(a) Government obligations that are not in default as to principal or interest, that are valid and legally authorized, and that are issued, assumed, or guaranteed by any of the following:

(i) The United States or any agency or instrumentality of the United States.

(ii) A state of the United States.

(iii) A territory, possession**,** or other governmental unit of the United States.

(iv) An agency or instrumentality of a governmental unit referred to in paragraphs (ii) and (iii) of this subdivision if the obligations are by law (statutory or otherwise) payable, as to both principal and

interest, from taxes levied**,** or by law required to be levied, or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but must not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements.

(v) The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(b) Obligations that are issued in the United States, or that are dollar denominated and issued in a non-United States market by a solvent United States institution (other than an insurance company) or that are assumed or guaranteed by a solvent United States institution (other than an insurance company) and that are not in default as to principal or interest if the obligations meet 1 of the following requirements:

(i) Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated~~.~~**,** are similar in structure and other material respects to other obligations of the same institution that are so rated.

(ii) Are insured by at least one authorized insurer (other than the investing insurer or a parent~~.~~ subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance~~.~~**,** are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC.

(iii) Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC.

(c) Obligations issued, assumed, or guaranteed by a solvent non-United States institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of United States corporations issued in a non-United States currency if in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(d) Equity interests to which the following apply, as applicable:

(i) Investments in common shares or partnership interests of a solvent United States institution are permissible if both of the following requirements are met:

(A) Its obligations and preferred shares, if any, are eligible as investments under this rule.

(B) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the securities exchange act of 1934, 15 USC 78a to 78qq, or otherwise registered pursuant to that act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust must not invest in equity interests under this subparagraph in an amount exceeding 1% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company.

(ii) Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development are permissible if both of the following requirements are met:

(A) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(B) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development.

(iii) An investment in or loan upon any one institution’s outstanding equity interests must not exceed 1% of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, must not exceed 10% of the assets in the trust.

(e) Obligations issued, assumed, or guaranteed by a multinational development bank, if the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(f) Investment companies to which the following apply, as applicable:

(i) Securities of an investment company registered pursuant to the investment company act of 1940, 15 USC 80a-1 to 80a-64, are permissible investments if the investment company meets either of the following:

(A) Invests at least 90% of its assets in the types of securities that qualify as an investment under subdivision (a), (b), or (c) of this subrule or invests in securities that are determined by the director to be substantively similar to the types of securities set forth in subdivision (a), (b), or (c) of this subrule.

(B) Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subdivision (d)(i) of this subrule.

(ii) Investments made by a trust in investment companies under this subdivision must not exceed either of the following limitations:

(A) An investment in an investment company qualifying under paragraph (i)(A) of this subdivision must not exceed 10% of the assets in the trust**,** and the aggregate amount of investment in qualifying investment companies must not exceed 25% of the assets in the trust.

(B) Investments in an investment company qualifying under paragraph (i)(B) of this subdivision must not exceed 5% of the assets in the trust, and the aggregate amount of investment in qualifying investment companies must be included when calculating the permissible aggregate value of equity interests pursuant to subdivision (d)(i) of this subrule.

(g) Letters of credit to which all of the following apply:

(i) In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director) to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(ii) The trust agreement must provide that the trustee is liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where the draw would be required must be considered to be negligence, willful misconduct, or both.

(3) A specific security provided to a ceding insurer by an assuming insurer pursuant to section 1105 of the code, MCL 500.1105, must be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security before, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this rule.

(4) An investment made pursuant to the provisions of subrule (2)(a), (b), or (c) of this rule is subject to all of the following additional limitations:

(a) An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities must not exceed 5% of the assets of the trust.

(b) An investment in any one mortgage-related security must not exceed 5% of the assets of the trust.

(c) The aggregate total investment in mortgage-related securities must not exceed 25% of the assets of the trust.

(d) Preferred or guaranteed shares issued or guaranteed by a solvent United States institution are permissible investments if all of the institution’s obligations are eligible as investments under subrule (2)(b)(i) and (iii) of this rule, but must not exceed 2% of the assets of the trust.

(5) As used in this rule:

(a) "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that meets either of the following provisions:

(i) Represents ownership of 1 or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under the notes, certificates**,** or participation), that meet both of the following requirements:

(A) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 USC 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located.

(B) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 USC 1709 and 1715b, or, where the notes involve a lien on the manufactured home by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 USC 1703.

(ii) Is secured by 1 or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of paragraph (i)(A) and (B) of this subdivision.

(b) "Promissory note" when used in connection with a manufactured home, also includes a loan, advance**,** or credit sale as evidenced by a retail installment sales contract or other instrument.

R 500.1133 Trust agreements under section 1105 of the code, MCL 500.1105.

Rule 13. (1) Reinsurance trusts established under section 1105 of the code, MCL 500.1105, must comply with the requirements of R 500.1123 and this rule.

(2) The trust agreement must be entered into between the beneficiary, the grantor, and a trustee. The trustee must be a qualified United States financial institution.

(3) The trust agreement must create a trust account into which assets must be deposited.

(4) All assets in the trust account must be held by the trustee at the trustee's office in the United States.

(5) The trust agreement must provide for all of the following:

(a) The beneficiary has the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee.

(b) No other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets.

(c) The trust agreement must not be subject to any conditions or qualifications outside of the trust agreement.

(d) The trust agreement must not contain references to any other agreements or documents, except as provided for under subrules (12) and (13) of this rule.

(6) The trust agreement must be established for the sole benefit of the beneficiary.

(7) The trust agreement must require the trustee to do all of the following:

(a) Receive assets and hold all assets in a safe place.

(b) Determine that all assets are in a form that the beneficiary, or the trustee upon the direction of the beneficiary, may, when necessary, negotiate the assets without the consent of, or a signature from, the grantor or any other person or entity.

(c) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals not less frequent than the end of each calendar quarter.

(d) Notify the grantor and the beneficiary within 10 days of any deposits to, or withdrawals from, the trust account.

(e) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary.

(f) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary. However, the trustee may, without the consent of, but with notice to, the beneficiary, upon call or maturity of any trust asset, withdraw the asset upon the condition that the proceeds are paid into the trust account.

(8) The trust agreement must provide that written notice of termination must be delivered by the trustee to the beneficiary not less than 30 days, but not more than 45 days, before termination of the trust account.

(9) The trust agreement must be made subject to and governed by the laws of the state in which the trust is domiciled.

(10) The trust agreement must prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. For a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, as duly approved by the director, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(11) The trust agreement must provide that the trustee is liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where the draw would be required is considered to be negligence, willful misconduct, or both.

(12) Notwithstanding other provisions of these rules, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for any of the following purposes:

(a) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer.

(b) To make payment to the assuming insurer of any amounts held in the trust account that are more than 102% of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement.

(c) Where the ceding insurer has received notification of termination of the trust account and the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days before the termination date, to withdraw amounts equal to the obligations and deposit the amounts in a separate account apart from its general assets in the name of the ceding insurer in any qualified United States financial institution in trust for the uses and purposes specified in subdivisions (a) and (b) of this subrule as may remain executory after the withdrawal and for any period after the termination date.

(13) Notwithstanding other provisions of these rules, when a trust agreement is established in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that

the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for 1 or more of the following purposes:

(a) To pay or reimburse the ceding insurer for either or both of the following:

(i) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies.

(ii) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement.

(b) To pay the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(c) Where the ceding insurer has received notification of termination of the trust and the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days before the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses and purposes specified in subdivisions (a) and (b) of this subrule as may remain executory after withdrawal and for any period after the termination date.

(14) Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account must be valued according to their current fair market value and consist only of cash (United States legal tender), certificates of deposit issued by a United States bank and payable in United States legal tender, and investments permitted by chapter 9 of the code, MCL 500.901 to 500.947, or any combination of cash, certificates of deposit, or investments, as long as investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust must not exceed 5% of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this subrule must be included in the reinsurance agreement.

(15) The trust agreement may provide that the trustee may resign upon the delivery of a written notice of resignation that is effective not less than 90 days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by the delivery, to the trustee and the beneficiary, of a written notice of removal that is effective not less than 90 days after receipt by the trustee and the beneficiary of the notice. However, a resignation or removal is not effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(16) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive payments of any dividends or interest upon any shares of stock or obligations included in the trust account. The interest or dividends must be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(17) The trustee may be given authority to invest and accept substitutions of any funds in the account only if the investment or substitution is made with the prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and are consistent with the restrictions in R 500.1123(1)(c).

(18) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. The transfer may be conditioned upon the trustee's receipt, either before the transfer or simultaneous with the transfer, of other specified assets.

(19) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary must, with the written approval by the beneficiary, be delivered over to the grantor.

R 500.1134 Credit for reinsurance; reciprocal jurisdictions.

Rule 14. (1) Pursuant to section 1103(7) to (18) of the code, MCL 500.1103, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and that meets the other applicable requirements of these rules.

(2) Credit is allowed pursuant to this rule if the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting all of the following conditions:

(a) The assuming insurer is licensed to transact reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction.

(b) The assuming insurer has and maintains on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in subdivision (g) of this subrule according to the methodology of its domiciliary jurisdiction, in the following amounts, as applicable:

(i) No less than $250,000,000.

(ii) For an assuming insurer that is an association, including incorporated and individual unincorporated underwriters, both of the following amounts:

(A) Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least $250,000,000.

(B) A central fund containing a balance of the equivalent of at least $250,000,000.

(c) The assuming insurer has and maintains on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

(i) For an assuming insurer that has its head office or is domiciled in a reciprocal jurisdiction described in subrule (9)(b)(i) of this rule, the ratio specified in the applicable covered agreement.

(ii) For an assuming insurer that is domiciled in a reciprocal jurisdiction described in subrule (9)(b)(ii) of this rule, a risk-based capital (RBC) ratio of 300% of the authorized control level, calculated pursuant to the formula developed by the NAIC.

(iii) For an assuming insurer that is domiciled in a reciprocal jurisdiction described in subrule (9)(b)(iii) of this rule, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC committee process, including, but not limited to, solvency or capital ratio as the director determines to be an effective measure of solvency.

(d) The assuming insurer agrees to and provides adequate assurance of its agreement to all the following by submitting a properly executed form approved by the director:

(i) The assuming insurer must agree to provide prompt written notice and explanation to the director if it falls below the minimum requirements set forth in subdivisions (b) or (c) of this subrule, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(ii) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the director as agent for service of process. The director may also require that the consent be provided and included in each reinsurance agreement under the director’s jurisdiction. This paragraph does not limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent the reinsurance agreement is unenforceable under applicable insolvency or delinquency laws.

(iii) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

(iv) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this state's ceding insurers and agree to notify the ceding insurer and the director and to provide 100% security to the ceding insurer consistent with the terms of the scheme if the assuming insurer enters into a solvent scheme of arrangement. That security must be in a form consistent with the provisions of sections 1103(6) and 1105 of the code, MCL 500.1103 and 500.1105, and the requirements, as applicable, under R 500.1123, R 500.1124, R 500.1125, R 500.1126, and R 500.1133.

(vi) The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subdivision (e) of this subrule.

(e) The assuming insurer or its legal successor must provide, if requested by the director, on behalf of itself and any legal predecessors, the following documentation to the director:

(i) For the 2 years preceding entry into the reinsurance agreement and on an annual basis after those years, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report.

(ii) For the 2 years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion if filed with the assuming insurer's supervisor.

(iii) Before entry into the reinsurance agreement and not more than semi-annually afterward, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States.

(iv) Before entry into the reinsurance agreement and not more than semi-annually afterward, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subdivision (f) of this subrule.

(f) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. There is evidence of a lack of prompt payment if any of the following criteria is met:

(i) More than 15% of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the director.

(ii) More than 15% of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed for each ceding insurer $100,000, or as otherwise specified in a covered agreement.

(iii) The aggregate amount of reinsurance recoverables on paid losses that are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified in a covered agreement.

(g) The assuming insurer's supervisory authority must confirm to the director on an annual basis that the assuming insurer complies with the requirements set forth in subdivisions (b) and (c) of this subrule.

(3) Subrule (2) of this rule does not preclude an assuming insurer from providing the director with information on a voluntary basis.

(4) The director shall timely create and publish a list of reciprocal jurisdictions. The list must include any reciprocal jurisdiction described in subrule (9)(b)(i) and (ii) of this rule and consider any other reciprocal jurisdiction included on the list published through the NAIC committee process. The director

may approve a jurisdiction that does not appear the NAIC list, as provided by applicable law or regulation or pursuant to criteria published through the NAIC committee process. The director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets 1 or more of the requirements of a reciprocal jurisdiction, as provided by applicable law or regulation or pursuant to a process published through the NAIC committee process, except that the director shall not remove from the list a reciprocal jurisdiction as described under subrule (9)(b)(i) or (ii). Upon removal of a reciprocal jurisdiction from the list, credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction must be allowed if otherwise allowed pursuant to sections 1103, 1105, and 1106 of the code, MCL 500.1103, 500.1105, and 500.1106, and these rules.

(5) The director shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this rule and to which cessions must be granted credit under this rule. Both of the following apply to the list of assuming insurers:

(a) If an NAIC accredited jurisdiction has determined that the conditions set forth in subrule (2) of this rule have been met, the director has the discretion to defer to that jurisdiction's determination and add that assuming insurer to the list of assuming insurers to which cessions must granted credit under this subrule. The director may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of subrule (2) of this rule.

(b) When requesting that the director defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed form approved by the director and additional information as the director may require. If the director receives a request under this subdivision, the director shall notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.

(6) If the director determines that an assuming insurer no longer meets 1 or more of the requirements under this rule, the director may revoke or suspend the eligibility of the assuming insurer for recognition under this rule. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured pursuant to section 1105 of the code, MCL 500.1105. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into before the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the director and are consistent with the provisions of section 1105 of the code, MCL 500.1105.

(7) Before denying statement credit or imposing a requirement to post security under subrule (6) of this rule or adopting any similar requirement that has substantially the same regulatory impact as security, the director shall do all of the following:

(a) Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies 1 of the conditions listed in subrule (2) of this rule.

(b) Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection. After the expiration of 90 days or less, as set out in this subdivision, if the director determines that no or insufficient action was taken by the assuming insurer, the director may impose any of the requirements as set out in this subrule.

(c) Provide a written explanation to the assuming insurer of any of the requirements set out in this subrule.

(8) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

(9) As used in this rule:

(a) "Covered agreement" means that term as defined in section 1103(27)(b)(*i*) of the code, MCL 500.1103.

(b) "Reciprocal jurisdiction" means a jurisdiction, as designated by the director pursuant to subrule (4) of this rule, that meets 1 of the following:

(i) A jurisdiction that meets the conditions under section 1103(27)(b)(*i*) of the code, MCL 500.1103.

(ii) A jurisdiction that meets the conditions under section 1103(27)(b)(*ii*) of the code, MCL 500.1103.

(iii) A qualified jurisdiction, as determined by the director pursuant to section 1103(6)(c) of the code, MCL 500.1103, and R 500.1131(15), that is not otherwise described in paragraphs (i) or (ii) of this subdivision, and that the director determines meets all of the following additional requirements:

(A) Provides that an insurer that has its head office or is domiciled in the qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in the qualified jurisdiction.

(B) Does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance.

(C) Recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in the qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the director or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction.

(D) Provides written confirmation by a competent regulatory authority in the qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, must be provided to the director pursuant to a memorandum of understanding or similar document between the director and the qualified jurisdiction, including, but not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

MCL 24.242(3) states in part:

"… the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform."

MCL 24.208 states in part:

"Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules."

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF TREASURY

STATE TREASURER

SCHOOL BOND QUALIFICATION, APPROVAL, AND LOAN RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the state treasurer by section 11 **of the school bond qualification, approval, and loan act,** 2005 PA 92, MCL 388.1931, and section 33 **of the administrative procedures act of 1969,** 1969 PA 306, MCL **24.233** ~~24.201 to 24.328 all as amended~~)

R 388.2, R 388.3, R 388.11, R 388.12, and R 388.13 of the Michigan Administrative Code are amended, and R 388.6, R 388.10 and R 388.20 of the Code are rescinded, as follows:

PART 2. SCHOOL BOND QUALIFICATION

R 388.2 Preliminary qualification; application.

Rule 2. (1) A completed preliminary qualification application shall include a submission to the department that complies with section 5 of the act, MCL 388.1925, any other applicable law, and any other guidance published by the department including, but not limited to, global instructions, policies, procedures, guidelines, or rules. The application shall include the following:

(a) The proposed ballot language to be submitted to the electors shall include all language required by the following statutes:

(i) **Section 1361 of the revised school code, 1976 PA 451,** MCL 380.1361~~, the revised school code~~.

(ii) **Section 24f of the general property tax act, 1893 PA 206,** MCL 211.24f~~, general property tax act~~.

(iii) Section 8 of the act**, MCL 388.1928**.

(iv) Any other applicable law.

(b) A description of the project or projects to be financed including all of the following:

(i) A cost analysis providing summary totals that can be matched to budget estimates as reported by the school district.

(ii) For new construction, all of the following shall be included:

(A) The estimated number of rooms.

(B) The types of rooms expected to be constructed.

(C) The estimated square footage of the project or projects.

(D) The estimated cost per square foot.

(iii) For remodeling and site work, all of the following shall be included:

(A) The planned use of the space.

(B) The type of work expected to be performed.

(C) The estimated total cost of the work to be performed.

(iv) For site acquisitions, the total cost of acquisition shall be included, or if such information is not available, the estimated total cost of acquisition.

(v) For technology, furnishings, and equipment, school districts shall provide detail regarding the types of technology, furnishings, and equipment to be purchased.

(c) A pro forma debt service projection, which shall demonstrate both of the following:

(i) That the projected computed millage will be sufficient to repay principal and interest on all of the school district's existing and proposed new qualified bonds plus principal and interest on all existing and anticipated qualified loans related to those bonds not later than the final mandatory repayment date.

(ii) That the school district's projected average growth in taxable value is based on the assumptions required by the act.

(d) The utilization rate for each project included in the preliminary qualification application, which meets the following specifications:

(i) The utilization rate shall be calculated by dividing the projected 5-year enrollment by the standard pupil capacity factor provided by the department.

(ii) The 5-year enrollment projection used in this calculation shall be obtained from an enrollment projection service provider approved by the department.

~~(iii) When the utilization rate for any building is below 60% for remodeling projects and 85% for new construction projects, the school district shall submit a written explanation of such variance discussing the actions the school district intends to take to address the underutilization.~~

(e) Evidence that the cost per square foot of the project or projects will be reasonable in light of economic conditions applicable to the geographic area in which the school district is located.

(f) An amortization schedule in accordance with **sections 5(2)(k) and 7(1)(d) of the act,** MCL 388.1925~~(2)(k)~~ and ~~MCL~~ 388.1927~~(1)(d)~~.

~~(g) A completed prequalification application includes the following data, which the department shall use for informational purposes only:~~

~~(i) The total bonded debt outstanding of the school district for the school district fiscal year in which the application is filed.~~

~~(ii) The total taxable value of property in the school district for the school district fiscal year in which the application is filed.~~

~~(iii) A statement describing any environmental or usability problems to be addressed by the project or projects.~~

~~(iv) An architect's analysis of the overall condition of the facilities to be renovated or replaced as a part of the project or projects.~~

~~(v) Acknowledgement that the district will keep books and records of expenditure of bond proceeds and make this information available to the department upon request within 5 business days.~~

(2) The department shall determine the reasonableness of cost per square foot by comparing the cost included in the preliminary qualification application to the cost per square foot parameter announced annually by the department. The cost per square foot parameter announced annually by the department shall be calculated from data derived from reputable independent sources, including but not limited to, R.S. Means or such similar entity that provides reliable objective information.

~~(3) If it has been more than 12 months since the preliminary qualification was approved, then a school district shall submit the following information to update the application prior to submitting an application for final qualification:~~

~~(a) A status report of any previous series of bonds included in the authorization.~~

~~(b) Updated project sheets for each project included in the proposed series and supporting cost detail, as described in R 388.2(1)(b).~~

~~(c) A cost summary sheet for proposed bond series.~~

~~(d) An updated pro forma debt service projection showing bond structure for proposed series.~~

R 388.3 Qualification of bonds.

Rule 3. (1) To obtain final qualification of bonds, a school district shall, along with meeting any other requirements of section 7 of the act, MCL 388.1927, submit a final qualification application and supporting documentation in the form prescribed by the department.

(2) Supporting documentation shall include all of the following:

(a) A cover letter from legal counsel indicating the requested approval date and delivery date if known at the time of submission.

(b) The certificate of determination of election results and vote count approving the bonds.

(c) An updated pro forma debt service projection.

(d) A copy of any adopted resolution authorizing the issuance of bonds.

(e) A copy of any resolution authorizing the sale of bonds if such a resolution is applicable.

~~(f) The preliminary or final official statement, whichever is available at the time of submission.~~

~~(g) Acknowledgement that the district will keep books and records of expenditure of bond proceeds and make this information available to the department upon request within 5 business days.~~

(3) Supporting documentation for refunding bond issues shall include **additional financial schedules that document net present value savings of the refunding bond issue.** ~~both of the following:~~

~~(a) Additional financial schedules that document net present value savings of the refunding bond issue.~~

~~(b) A draft verification report of mathematical accuracy of the refunding tables, prepared by a reliable independent source.~~

~~(4) If a school district does not issue its qualified bonds within 180 days after the date of the order qualifying bonds, then the school district shall submit a revised application and updated pro forma debt service projection to the department.~~

~~(5)~~ **(4)** Notwithstanding the repayment requirements of these rules, all bonds qualified under the act and ~~**Aa**~~**a**rticle IX of the state constitution of 1963 shall be considered qualified upon issuance of the order qualifying bonds by the state treasurer until final maturity.

PART 3. SCHOOL LOAN REVOLVING FUND LOANS

~~R 388.6 Certification of computed millage~~. **Rescinded.**

~~Rule 6. Subject to the act and other provisions of these rules, a school district shall authorize, agree to, and certify the levy of its full computed millage before borrowing from the school loan revolving fund.~~

~~R 388.10 Final mandatory repayment dates for borrowing related to new bond issues.~~ Rescinded.

~~Rule 10. The final mandatory repayment dates for borrowing related to qualified bond issues shall be determined in accordance with the act.~~

R 388.11 Interest rates on qualified loans.

Rule 11. (1) All qualified loans shall bear interest as defined in section 9(8) of the act, MCL 388.1929.

(2) The department shall recalculate the interest rate on all qualified loans at least quarterly. ~~if any of the following occur:~~

~~(a) Additional school loan bonds or school loan revolving fund bonds are issued.~~

~~(b) Existing school loan bonds or school loan revolving fund bonds are refunded.~~

~~(c) Principal payments are made on existing school loan bonds or school loan revolving fund bonds.~~

~~(d) Each time variable interest rates are adjusted on school loan bonds, or quarterly for school loan revolving fund bonds.~~

Interest on all qualified loans shall be compounded annually on September 30.

R 388.12 Repayment; invoices.

Rule 12. ~~(1) If the revenue generated by a school district's computed millage levied in a 12-month period exceeds the debt service due on qualified bonds during that 12- month period, then the school district shall pay the difference, less a reasonable amount of funds on hand, as determined by the state treasurer, to cover minimum balance requirements or potential tax disputes, to the department as payment of the outstanding loan.~~

~~(2)~~ **(1)** The department shall issue an invoice to the school district at least once a year when the information contained in a loan activity statement demonstrates that the revenue generated by a school district's levy of the computed millage will exceed the annual debt service on the bonds.

~~(3)~~ **(2)** The school district shall remit the amount specified in the invoice to the department not later than the next succeeding May 15 after the dated date of the invoice.

~~(4)~~ **(3)** The school district shall promptly submit to the department an explanation of any difference between the invoiced payment due and the payment remitted.

PART 4. NONCOMPLIANCE

R 388.13 Noncompliance; remedies.

Rule 13. (1) The following situations constitute noncompliance:

(a) A school district that owes the state loan repayments relating to qualified bonds fails to levy at least the computed millage upon its taxable value for debt retirement purposes for qualified bonds or qualified loans under the act.

(b) A school district fails to honor its agreement to repay a qualified loan or any installment of a qualified loan.

(c) A school district fails to file or correctly file required documentation as defined in the act or these rules.

(2) In addition to any other remedies provided by the act or other state law, in the event of noncompliance, the school district shall **file or correct the required documentation.** ~~do all of the following as required by the department:~~

~~(a) File or correct the required documentation.~~

~~(b) Increase its debt levy in the next succeeding year to obtain the funds necessary to repay the amount of the default plus a late charge that shall be 3% of the amount due. If a school district fails to levy at least the computed millage upon its taxable value, then the school district shall increase its debt levy in the next succeeding year to obtain the amount necessary to repay the amount of the default plus a late charge that shall be 3% of the amount due even when such an increase will be~~

~~higher than the computed millage.~~

~~(c) Shall pay to the state the amount of the default plus the 3% late charge together with any other amounts owed during the next tax year following the year in which the default occurred.~~

~~(3) The department shall cause state school aid not to be disbursed to the non- complying school district until arrangements for the payment of the amount in arrears are made with the department's approval.~~

~~(4)~~ **(3)** Failure of a school district to comply with application due dates or failure of a school district to process any report, application, confirmation, or repayment as required under the act or in these rules may result in 1 or both of the following:

(a) The department may issue a notification to the school board requiring a written response of remedy.

(b) The department may withhold a school district's state aid funds until the school district complies with all requirements.

~~(5)~~ **(4)** None of the following situations constitutes noncompliance:

(a) Taxpayer delinquencies.

(b) Failure of projected pupil or tax base growth rates to meet initial projections.

(c) Decline in the school district tax base.

PART 10. USE OF REMAINING PROCEEDS

~~R 388.20 Use of remaining proceeds.~~ **Rescinded.**

Rule 20. (1) School districts may only use bond proceeds remaining after the approved projects are completed to do the following:

~~(a) Pay debt service on qualified bonds.~~

~~(b) Pay qualified loans.~~

~~(2) Only under limited circumstances, and if in the opinion of the district's bond counsel, the use of remaining proceeds to pay down debt would adversely affect the tax treatment of interest on the qualified bonds, the district may use remaining bond proceeds to pay for enhancements to the projects approved by the school electors as described in the ballot language.~~

NOTICE OF PUBLIC HEARING

Department of Treasury
Bureau of State and Authority Finance
Administrative Rules for School Bond Qualification, Approval, And Loan Rules
Rule Set 2020-104 TY

NOTICE OF PUBLIC HEARING
Monday, July 12, 2021
09:00 AM

The public hearing will be held virtually via Microsoft Teams 9:00 AM- 11:00 AM on July 12, 2021 to receive public comments while complying with measures designed to help prevent the spread of Coronavirus Disease 2019 (COVID 19) and the City of Lansing Resolution #2021-081. Weblink: https://bit.ly/3y6yGp6 Phone Number: 248-509-0316 When prompted enter conference ID: 996 926 837#

The Department of Treasury will hold a public hearing to receive public comments on proposed changes to the School Bond Qualification, Approval, And Loan Rules rule set.

General goal and purpose of these rules are to provide a quick reference guide for school districts who plan to obtain a qualified loan status or plan to borrow funds through the School Loan Revolving Fund (SLRF) with the State. This rule change will ensure that guidelines in the Statute are not duplicated in the Rules and ensure that all Rules are following Statute. Existing Rules will be updated for clarification purposes of Statute.

By authority conferred on the Director of the Bureau of State and Authority Finance by MCL 388.1931 of the School Bond Qualification, Approval and Loan Act, MCL 388.1921 to 388.1939. The proposed rules will take effect immediately after filing with the Secretary of State.

The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 6/15/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: 430 W. Allegan St., Lansing Michigan 48922 or electronic transmission sabinj1 michigan.gov. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 6/15/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: sabinj1 michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/12/2021 at 05:00PM.

Department of Treasury, School Bond Loan Program Attention: Janelle Sabin

Email: SabinJ1 michigan.gov

430 W. Allegan St., Lansing, MI 48922

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-335-4302 to make arrangements.

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

MCL 24.256(1) states in part:

"Sec. 56. (1) The Office of Regulatory Reform shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the Office of Regulatory Reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The Office of Regulatory Reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so…"

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

May 25, 2021

Ms. Deidre O'Berry
The Michigan Office of Administrative Hearings and Rules
Ottawa Building, 2nd Floor
611 West Ottawa Street
Lansing, MI 48909

RE: Request for a correction of the Michigan Administrative Code, Audiology – General Rules filed with the Office of the Great Seal on April 26, 2021.

Dear Ms. O'Berry:

The Licensing and Regulatory Affairs Agency, Bureau of Professional Licensing, is writing to request that the Michigan Office of Administrative Hearings and Rules exercise its discretion to correct obvious errors in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act of 1969, 1969 PA 306, as amended.

The Agency requests the following corrections:

(1) R 338.3 Licensure by endorsement; audiologist: Subdivision 2 has a stricken letter "a" remaining in the set. It is requested that it be removed.

If an applicant was registered or licensed as an audiologist in another state with substantially equivalent requirements and holds a current and unencumbered registration of license as **a** an audiologist in that state, then it is presumed that the applicant satisfied the requirements of section 16811(1)(a) or (b), and (2) or (3) of the code, MCL 333.16811.

Please amend the rule set to reflect these corrections in both the *Michigan Register* and the Michigan Administrative Code.

EMERGENCY RULES

MCL 24.248 states:

"Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and shall not be compiled in the Michigan Administrative Code*, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.*
(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code."

EMERGENCY RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

GENERAL RULES

EMERGENCY RULES

CORONAVIRUS DISEASE 2019 (COVID-19)

Filed with the secretary of state on May 24, 2021

These rules take effect upon filing with the secretary of state and shall remain in effect until October 14, 2021.

(By authority conferred on the director of the department of labor and economic opportunity by sections 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

FINDING OF EMERGENCY

These rules are promulgated by the Director of the Michigan Department of Labor and Economic Opportunity to establish requirements for employers to control, prevent, and mitigate the spread of coronavirus disease 2019 (COVID-19) among employees. Based on the best available scientific evidence and public health guidance published by the U.S. Centers for Disease Control (CDC) and other public health authorities, COVID-19 is an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). SARS-CoV-2 is easily transmitted through the air from person-to-person through respiratory aerosols. In addition to its contagious nature, COVID-19 is dangerous and deadly. As of May 11, 2021, the State of Michigan had a total of 867,341 confirmed cases and 18,338 deaths.

Work, by its nature, removes people from the confines and relative safety of their homes to interact with others who may be carrying the virus including coworkers, customers, patients, or the public at large. Employees who come into contact with others at work are at elevated risk of infection.

Since March 2020, employers have reported 61 worker deaths from COVID-19 in Michigan and 173 in-patient hospitalizations for COVID-19 potentially linked to workplace exposure to SARS-CoV-2. MIOSHA has received over 15,000 complaints from employees alleging uncontrolled COVID-19 hazards in the workplace and 580 referrals from local government, including local health departments, indicating that businesses were not taking all the necessary measures to protect their employees from SARS-CoV-2 infection.

To date, the Food and Drug Administration has granted emergency use authorization to three vaccines to prevent COVID-19, providing a path to end the pandemic. The State of Michigan is part of the largest mass vaccination effort in modern history and is presently working toward vaccinating at least 70% of its residents 16 and older as quickly as possible.

The Legislature has declared that "all employees shall be provided safe and healthful work environments free of recognized hazards." MCL 408.1009. Employers must provide employees with "a place of employment that is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee." MCL 408.1011(a). Nonetheless, Michigan's experience with COVID-19 demonstrates that the disease can spread rapidly without protective measures and standards in place. Workplaces, where employees, customers, and members of the public congregate, pose a particular threat for COVID-19's spread. To mitigate and limit COVID-19's spread in workplaces and to protect employees across Michigan, it is necessary to impose these rules and standards.

Businesses must do their part to protect employees, their patrons, and their communities. Many businesses have already done so by implementing robust safeguards to prevent viral transmission. But we can and must do more: no one should feel unsafe at work. Pursuant to section 21(2) of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1021, I find that these emergency rules are necessary to protect employees during the ongoing COVID-19 pandemic.

Based on the best available scientific evidence and public health guidance available regarding the spread of COVID-19 in the workplace, I find that these emergency rules are necessary to protect employees. If the non-emergency rulemaking process specified in the administrative procedures act of 1969 (APA), 1969 PA 306, MCL 24.201 to 24.328, for the promulgation of rules was followed, employees across Michigan may be unnecessarily exposed to SARS-CoV-2 during the rule promulgation process. Further, existing MIOSHA rules do not directly address COVID-19's spread in the workplace and employees are likely to experience an increased probability of infection at work until the protective measures in this rule are in place. Accordingly, following the non-emergency rulemaking process would undermine the effectiveness of Michigan's emergency response to COVID-19, and expose Michigan workers to a higher risk of contracting the disease in their places of employment.

The Director, therefore, for the preservation of the public health, safety, and welfare, finds that a clear and convincing need exists for the promulgation of emergency rules as provided in section 48 of the APA, MCL 24.248, without following the notice and participation procedures required by sections 41 and 42 of the APA, MCL 24.241 and 24.242.

Rule 1. Scope and application.

These rules apply to all employers covered in the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, for SARS-CoV-2 coronavirus and COVID-19.

Rule 1a. Application of other rules.

These emergency rules supersede the entirety of the emergency rules filed on October 14, 2020, and the extension of these emergency rules filed on April 13, 2021.

Rule 1b. Suspension of previous rule.
In the event these emergency rules issued on May 24, 2021 are deemed invalid by a court of competent jurisdiction, the previously filed rules will remain effective for the duration of the extension.

Rule 2. Definitions.
As used in these rules:
(a) "Close contact" means close contact as defined by the latest United States Centers for Disease Control and Prevention (CDC) guidelines at the time of contact.
(b) "COVID-19" means a viral respiratory illness characterized by symptoms defined by the CDC.
(c) "Known cases of COVID-19" means persons who have been confirmed through diagnostic testing to have COVID-19.
(d) "SARS-CoV-2" means the novel coronavirus identified as SARS-CoV-2 or a virus mutating from SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the virus which is the causative agent of COVID-19.
(e) "Suspected cases of COVID-19" means persons who have symptoms of COVID-19 but have not been confirmed through diagnostic testing or unvaccinated persons who have had close contact with a person who has been confirmed through diagnostic testing to have COVID-19.
(f) "Fully vaccinated persons" means persons for whom at least 2 weeks have passed after receiving the final dose of an FDA-approved or authorized COVID-19 vaccine.

Rule 3. COVID-19 preparedness and response plan for all employers.
(1) The employer shall develop and implement a written COVID-19 preparedness and response plan consistent with these rules and current guidance for COVID-19 from the CDC and the Occupational Health and Safety Administration (OSHA).
(2) The preparedness and response plan shall include the measures the employer will implement to prevent employee exposure, including any applicable:
(a) Engineering controls.
(b) Administrative controls.
(c) Basic infection prevention measures.
(d) Personal protective equipment.
(e) Health surveillance.
(f) Training.
(3) The employer shall make the preparedness and response plan readily available to employees and their representatives, whether via website, internal network, or by hard copy.

Rule 4. Basic infection prevention measures for all employers.
(1) The employer shall promote frequent and thorough hand washing, including by providing workers, customers, and worksite visitors with a place to wash their hands. If soap and running water are not immediately available, the employer shall provide antiseptic hand sanitizers or alcohol-based hand towelettes containing at least 60 percent alcohol.
(2) The employer shall require workers who are experiencing symptoms of COVID-19 to not report to work or work in an isolated location.
(3) The employer shall increase facility cleaning and disinfection to limit exposure to SARS-CoV-2, in accordance with the latest CDC guidance.

(4) The employer shall use Environmental Protection Agency (EPA)-approved disinfectants that are expected to be effective against SARS-CoV-2 based on data for harder to kill viruses.

Rule 5. Health surveillance for all employers.

(1) The employer shall conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19.

(2) The employer shall direct employees to promptly report any signs and symptoms of COVID-19 to the employer before or during the work shift.

(3) The employer shall physically isolate any employees known or suspected to have COVID-19 from the remainder of the workforce, using measures such as, but not limited to:

(a) Not allowing known or suspected cases to report to work.

(b) Sending known or suspected cases away from the workplace.

(c) Assigning known or suspected cases to work alone at a remote location (for example, their home), as their health allows.

(4) When an employer learns of an employee, visitor, or customer with a known case of COVID-19, the employer shall, within 24 hours, notify any co-workers, contractors, or suppliers who may have come into contact with the person with a known case of COVID-19.

(5) The employer shall allow employees with a known or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the CDC.

Rule 6. Workplace controls for all employers.

(1) The employer shall designate 1 or more worksite COVID-19 safety coordinators to implement, monitor, and report on the COVID-19 control strategies developed under these rules.

(2) The employer shall ensure that any employees, except fully vaccinated persons, remain at least 6 feet from one another to the maximum extent feasible while on worksite premises.

(3) The employer shall provide non-medical grade face coverings to their employees at no cost to the employee. Employers are not required to provide non-medical grade face coverings to fully vaccinated persons.

(4) The employer shall require any employee, except fully vaccinated persons, to wear face coverings when employees cannot consistently maintain 6 feet of separation from other individuals indoors in the workplace. However, fully vaccinated persons must continue to wear face coverings when in the healthcare setting where patients may be present and when using airplane or public transportation if required by the latest CDC guidance.

(5) Compliance with subrules (2) and (4) of this rule may be accomplished in a manner deemed effective for the place of employment. This may include:

(a) Keeping records of whether employees are fully vaccinated persons, and exempting them from subrules (2) and (4) of this rule accordingly.

(b) Posting signs in the work area reminding employees that are not fully vaccinated to wear face coverings and maintain appropriate distancing.

(c) Allowing or requiring remote work.

(d) Requiring face coverings and social distancing for all employees regardless of vaccination status.

Rule 7. Training requirements for all employers.

(1) The employer shall provide training to employees on SARS-CoV-2 and COVID-19.
(2) The employer shall provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.
(3) The training shall cover all of the following:
(a) Workplace infection-control practices, including information on vaccinations available for COVID-19.
(b) The proper use of personal protective equipment.
(c) Steps the employee must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
(d) How to report unsafe working conditions.
(4) The employer shall provide updated training if it changes its preparedness and response plan, or new information becomes available about the transmission of SARS-CoV-2 or diagnosis of COVID-19.

Rule 8. Recordkeeping requirements for all employers.
(1) Employers must maintain a record of the following requirements:
(a) Training. The employer shall maintain a record of all COVID-19 employee training.
(b) Health screening protocols. The employer shall maintain a record of health screening for each non-vaccinated employee or contractor entering the workplace.
(c) If proceeding under Rule 6(5)(a), vaccination information sufficient for implementation
(d) Records of required notifications. The employer shall maintain a record of each notification required by Rule 5 of these rules.
(2) Employers must maintain records for 6 months from time of generation.

CUMULATIVE INDEX

L

LABOR AND ECONOMIC OPPORTUNITY, DEPARTMENT OF
Emergency Rule
ERs - Coronavirus Disease 2019 (COVID-19) (2021-10)

Correction
General Industry Safety and Health Standard Part 307. Acrylonitrile (2021-6)

Construction Safety and Health Part 505. Coronavirus-19 (COVID-19) (2021-8*)
Construction Safety Standard Part. 1 General Rules (2021-9)
Construction Safety and Health Standard Part 6. Personal Protective Equipment (2021-5)
Construction Safety Standard Part 8. Handling and Storage of Materials (2021-6)
Construction and Safety Standard Part 13. Mobile Equipment (2021-7*)
Construction Safety Standard Part 14. Tunnels, Shafts, Cofferdams, and Caissons (2021-4)
Construction Safety Standard Part 21. Walking and Working Areas (2021-6)
Construction Safety Standard Part 22. Signals, Signs, Tags, and Barricades (2021-6)
Construction Safety and Health Standard Part 602. Asbestos (2021-6)
Construction Safety and Health Standard Part 603. Lead (2021-6)
Construction Safety and Health Standards Part. 604 Chromium (VI) (2021-6)
Construction Safety and Health Standards Part. 605 Methylenedianiline (MDA) (2021-4)
Construction Safety and Health Standards Part 640. Beryllium in CS (2021-6)
Construction Safety Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air (2021-8*)
General Industry Standard Part 49. Slings (2021-9)
General Industry Safety and Health Part 62 Plastic Molding (2021-6)
General Industry Safety and Health Standard Part 302. Vinyl Chloride (2021-8)
General Industry Safety and Health Standard Part 303. Methylenedianiline (2021-6)
General Industry Safety and Health Standard Part 304. Ethylene Oxide (2021-6)
General Industry Safety and Health Standard Part 306. Formaldehyde (2021-6)
General Industry Safety and Health Standard Part 307. Acrylonitrile (2021-6)
General Industry Safety and Health Standard Part 308. Inorganic Arsenic (2021-6)
General Industry Part 309. Cadmium in General Industry (2021-7)
General Industry Standard Part 310. Lead in GI (2021-7)
General Industry Safety and Health Standard Part 311. Benzene (2021-8)
General Industry Safety and Health Standard Part 312 1,3. Butadiene (2021-9)
General Industry Safety and Health Standard Part 313. Methylene Chloride (2021-6)
General Industry Safety and Health Standard Part 314. Coke Oven Emission (2021-7)
General Industry Part 315. Chromium (VI) in General Industry (2021-7)
General Industry Part 340. Beryllium in GI (2021-6)
GI and CS and Health Standard Pt 432. Hazardous Waste Operations and Emergency Response (2021-7*)
General Industry and Construction Safety and Health Standard Part 451. Respiratory Protection (2021-8)
General Industry Part 472. Medical Services and First Aid (2021-6)
General Industry Safety and Health Standard Part.554 Bloodborne Infectious Diseases (2021-8)
General Industry Part 590. Silica (2021-6)
Safety and Health Standard Part 609. Cadmium (2021-4)

LICENSING & REGULATORY AFFAIRS
Correction
Audiology - General Rules (2021-10)

REPEAL
Liquor Control Commission Repeal MCL 436.1502 – R 436.1319 (2021-3)

Accountancy - General Rules (2021-9)
Acupuncture - General Rules (2021-7)
Audiology - General Rules (2021-8)
Board of Pharmacy - Animal Euthanasia and Sedation Rules (2021-6*)
Counseling - General Rules (2021-9)
Cosmetology -- General Rules (2021-8*)
Dentistry - General Rules (2021-8)
Fire Fighters Training Council (2021-3*)
Genetic Counseling - General Rules (2021-8)
Landscape Architects -- General Rules (2021-8)
Massage Therapy -- General Rules (2021-7)
Medicine - General Rules (2021-8)
Michigan Gas Safety Standards (2021-4*)
Nursing Home Administrators - General Rules (2021-8)
Occupational Code - Disciplinary Rules (2021-9)
Occupational Therapists - General Rules (2021-9)
Osteopathic Medicine and Surgery – General Rules (2021-8)
Part 7 Plumbing Code Rules (2021-10)
Podiatric Medicine and Surgery - General Rules (2021-8*)
Podiatric Medicine and Surgery - General Rules (2021-6*)
Preservation of Electric, Gas, and Steam Utilities (2021-4*)
Public Health Code - General Rules (2021-10)
Real Estate Appraisers – General Rules (2021-10)
Real Estate Brokers and Salespersons – General Rules (2021-6)
Speech-Language Pathology – General Rules (2021-8)
Social Work - General Rules (2021-6)
Veterinary Medicine -- General Rules (2021-8)

S

STATE POLICE, DEPARTMENT OF
Correction
Criminal Justice Information Systems (2021-6)

Criminal Justice Information Systems (2021-5)

S

TREASURY, DEPARTMENT OF
Charitable Gaming (2021-7*)
Horse Racing General Rules (2012-6)
School Bond Qualification, Approval, And Loan Rules (2021-10*)

ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2021 SESSION)

Mich. Const. Art. IV, §33 provides: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated."

Mich. Const. Art. IV, §27, further provides: "No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."

MCL 24.208 states in part:

"Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year."

2021 Michigan
Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

June 10, 2021
Compiled through PA 26 of 2021

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001		0030	Yes	3/2/2021	3/2/2021	3/2/2021	***Highways**; memorial*; portion of I-94 in Wayne County; designate as the "Firefighter Coleman A. Tate Memorial Highway". ***(Sen. Adam J. Hollier)***
0002	4047		Yes	3/9/2021	3/9/2021	3/9/2021 +	***Appropriations**; supplemental*; supplemental appropriations; provide for fiscal year 2020-2021. ***(Rep. Timothy Beson)***
0003	4048		Yes	3/9/2021	3/9/2021	3/9/2021 +	***School aid**; supplemental*; supplemental school funding; provide for. ***(Rep. Brad Paquette)***
0004		0186	Yes	3/24/2021	3/24/2021	3/24/2021	***Agriculture**; industrial hemp*; regulations for growing industrial hemp; modify. ***(Sen. Dan Lauwers)***
0005		0100	Yes	3/26/2021	3/26/2021	3/26/2021	***Children**; child care*; definition of foster care; provide for. ***(Sen. John Bizon, M.D.)***
0006	4126		Yes	4/8/2021	4/8/2021	4/8/2021	***Natural resources**; hunting*; pheasant stamp program; modify. ***(Rep. Gary Howell)***
0007	4569		Yes	4/22/2021	4/22/2021	4/22/2021	***Individual income tax**; city*; extension of 2020 city income tax filing deadline; allow. ***(Rep. Andrew Beeler)***
0008	4571		Yes	4/22/2021	4/22/2021	4/22/2021	***Individual income tax**; returns*; extension of filing deadline for 2020 income taxes; allow. ***(Rep. Tenisha Yancey)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0009	4469		Yes	5/6/2021	5/7/2021	5/7/2021	***Appropriations**; natural resources*; Michigan natural resources trust fund; provide appropriations for fiscal year 2021-2022. ***(Rep. Sue Allor)***
0010	4019		Yes	5/6/2021	5/7/2021	5/7/2021	***Appropriations**; zero budget*; multi-department supplemental appropriations; provide for fiscal year 2020-2021. ***(Rep. Thomas Albert)***
0011	4429		Yes	5/13/2021	5/13/2021	5/13/2021	***Highways**; memorial*; portion of US-2 and US-41; designate as the "Darryl M. Rantanen Memorial Highway". ***(Rep. Beau LaFave)***
0012	4067		No	5/13/2021	5/13/2021	**	***Health occupations**; dentists*; health profession specialty field license; expand to include other health profession specialty fields. ***(Rep. Ben Frederick)***
0013	4053		Yes	5/13/2021	5/13/2021	5/13/2021	***Highways**; memorial*; portion of M-120; designate as the "Deputy Ernest W. Heikkila Memorial Highway". ***(Rep. Greg VanWoerkom)***
0014		0016	Yes	5/19/2021	5/19/2021	8/17/2021	***Housing**; inspection*; change of ownership; exclude certain transfers. ***(Sen. Dale W. Zorn)***
0015		0118	Yes	5/19/2021	5/19/2021	5/19/2021	***School aid**; penalties*; penalties for prohibited conduct; modify. ***(Sen. Ed McBroom)***
0016		0141	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify, and modify eligibility for direct shipper license and retailer delivery. ***(Sen. Wayne A. Schmidt)***
0017		0142	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; retail sales*; allowing in state and out-of-state mixed spirit drink manufacturers to deliver mixed spirit drink to retailers; provide for. ***(Sen. Winnie Brinks)***
0018		0143	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify. ***(Sen. Jeremy Moss)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0019		0144	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify. ***(Sen. Curtis S. VanderWall)***
0020		0049	Yes	6/3/2021	6/3/2021	6/3/2021	***Liquor**; permits*; an on-premises tasting room and an off-premises tasting room held at same location; allow under certain conditions. ***(Sen. Kimberly A. LaSata)***
0021	4043		No	6/8/2021	6/9/2021	**	***Mental health**; other*; information gathered by the electronic inpatient bed registry; require to be reported to the Michigan crisis and access line. ***(Rep. Mary Whiteford)***
0022	4044		No	6/8/2021	6/9/2021	**	***Mental health**; other*; state-operated registries related to mental health; require to report data to the Michigan crisis and access line. ***(Rep. Mary Whiteford)***
0023	4376		Yes	6/9/2021	6/9/2021	9/7/2021 #	***Occupations**; individual licensing and registration*; waiver of licensing fees for veterans, members of the armed forces, members of the uniformed forces, and their dependents; provide for. ***(Rep. Andrea Schroeder)***
0024	4377		Yes	6/9/2021	6/9/2021	9/7/2021	***Occupations**; individual licensing and registration*; licensing reciprocity for certain skilled trades for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license; provide for. ***(Rep. Sarah Anthony)***
0025		0157	Yes	6/9/2021	6/9/2021	9/7/2021	***Health occupations**; health professionals*; reciprocity for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license or registration; provide for. ***(Sen. John Bizon, M.D.)***
0026		0312	Yes	6/9/2021	6/9/2021	9/7/2021 #	***Occupations**; individual licensing and registration*; licensing reciprocity for certain occupations for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license; provide for. ***(Sen. Marshall Bullock)***
Veto	4049		No	No		3/9/2021	***Health**; diseases*; authority to close certain schools to in-person instruction and prohibit certain sporting events in emergency orders issued in response to an epidemic; modify. ***(Rep. Pamela Hornberger)***
Veto		0001	No	No		3/24/2021	***Health**; diseases*; time limits on emergency orders issued in response to an epidemic; provide for unless extension is approved by the legislature and require emergency order to include certain information. ***(Sen. Lana Theis)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
Veto		0029	No	No		3/26/2021	***Appropriations**; supplemental*; supplemental appropriations for 2019-2020 and 2020-2021; provide for. ***(Sen. Jim Stamas)***
Veto		0114	No	No		3/26/2021	***Appropriations**; zero budget*; multidepartment supplemental appropriations; provide for fiscal year 2020-2021. ***(Sen. Jim Stamas)***
Veto	4210		No	No		4/14/2021 #	***Property tax**; utility property*; eligible broadband equipment; exempt from certain taxes. ***(Rep. Beth Griffin)***
Veto		0046	No	No		5/13/2021	***Property tax**; exemptions*; eligible broadband equipment; exempt from personal property tax. ***(Sen. Aric Nesbitt)***
Veto		0017	No	No		5/19/2021	***Public employees and officers**; other*; 1968 PA 317 regarding contracts of public servants with public entities; modify certain population thresholds. ***(Sen. Dale W. Zorn)***
Veto	4448		No	No		6/3/2021	***State financing and management**; other*; suspension of freedom of information act requests in an executive order under the emergency management act; prohibit. ***(Rep. Steven Johnson)***
Veto	4728		No	No		6/3/2021	***Health**; diseases*; exemption for high school commencement ceremonies from emergency orders issued to control an epidemic; provide for under certain circumstances. ***(Rep. Ann Bollin)***

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