

PART 5. OUT-OF-STATE LAND SALES

R 339.22501 Definitions.

Rule 501. As used in this part:

(a) "Advertising" means a pamphlet, circular, form letter, fact sheet, sign, radio, television, telephone presentation or other script, newspaper or magazine advertisement, or other sales literature or advertising communication addressed to or intended for distribution to potential subscribers or purchasers, including any other inducement.

(b) "Engage in sales" means to sell, lease, option, or assign or to promote sales, leases, options, or assignments. The phrase also means any offer or solicitation of an offer to sell, lease, option, or assign.

(c) "Promotional nature" means engaging in sales of more than 25 lots, units, interests, or parcels by use of a common promotional plan.

(d) "Property" means improved and unimproved real estate; improvements thereon, including time share, interval ownership, or right-to-use agreements located outside the State of Michigan; and any interest in the improved or unimproved real estate.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22503 Broker compliance with code and rules required.

Rule 503. Brokers who intend to engage in sales of a promotional nature of property requiring prior approval of the department pursuant to section 2511 of the code shall comply with the code and these rules.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22505 Broker disclosure of physical characteristics of property.

Rule 505. The broker shall disclose fully and accurately to prospective purchasers the physical characteristics of the property offered, including any unusual or material circumstances or features affecting the property.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22507 Submittal of particulars of property.

Rule 507. A broker shall submit to the department full particulars of the property, on forms provided by the department, which shall include all of the following information:

(a) The name and principal address of the broker.

(b) The name and principal address of the seller.

(c) A general description of the property, stating the number of lots, parcels, units, or interests in the offering.

(d) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the property and each lot, unit, parcel, or interest, and a statement of all existing taxes and existing or proposed special assessments which affect the property.

(e) A statement of the use for which the property is offered.

(f) Information concerning existing or proposed improvements, including streets, water supply levels, drainage control systems, irrigation systems, sewage disposal systems, and customary utilities, and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any lot, unit, parcel, or interest in property.

(g) A narrative description of the promotional plan for the sale of the property, together with all advertising to be used.

(h) A legal description of, based on a survey by a professional land surveyor, the total area included in the property, and a statement of the topography thereof, together with a map showing the division proposed or made; the dimensions of the lots, parcels, units, or interests; and the relation of the property to existing streets, roads, and off-site improvements.

(i) A statement as to all of the following:

(i) The present condition of access to the property.

(ii) The availability on the property of sewage disposal facilities and other public utilities, including water, electricity, gas, and telephone facilities.

- (iii) The proximity, in miles, of the property to nearby municipalities.
 - (iv) The nature of any improvements to be installed, by whom they are to be installed and paid for, and an estimated schedule for completion, together with a statement as to the provisions for improvement maintenance.
 - (j) Such additional information as may be required by the department to assure full and fair disclosure to prospective purchasers.
- History: 1991 MR 4, Effective May 1, 1991.

R 339.22509 Provision of copies of sales instruments to department.

Rule 509. The broker shall furnish to the department copies of instruments which will be delivered to a purchaser to evidence his or her interest in the property and of the contracts and other agreements which a purchaser will be required to agree to or sign, together with the range of selling prices, rents, or leases at which it is proposed to dispose of the lots, units, parcels, or interests in the property.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22511 Submittal of proposed property report to department; form.

Rule 511. The broker shall submit a proposed property report to the department on forms provided by the department.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22513 Property report; review by prospective purchaser; proof of furnishing report.

Rule 513. A broker shall furnish a property report, as required by R 339.22511, to prospective purchasers and afford a reasonable time for its review before a prospective purchaser signs a document by which the purchaser becomes, or expresses an intention to become, obligated to purchase the property offered. A broker shall produce satisfactory proof of having properly furnished a property report upon demand by the department.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22515 Filing requirements.

Rule 515. (1) For purposes of approval under section 2511 of the code, the broker shall submit a copy of an order of registration pursuant to section 4 or 5 of 1972 P.A. 286, MCL 565.804 or 565.805, of the property to be sold, unless the property is exempt from such registration by section 4 or 5 of that act.

(2) For those types of property or sales exempted from registration by section 4 or 5 of 1972 P.A. 286, MCL 565.804 or 565.805, the broker shall submit a copy of the filing currently effective with the office of interstate land sales registration pursuant to Public Law 90-448, 15 U.S.C. Sections 1701 to 1720. The submission shall include the order of registration and the property report.

(3) When a broker engages in sales or the promotion of sales of condominiums exempt by section 4 or 5 of 1972 P.A. 286, MCL 565.804 or 565.805, the department may accept a submission of the filing and order from the situs state under an act regulating condominiums as evidence that the broker has satisfied the requirements of R 339.22507.

(4) When the broker engages in the sale of timeshare or membership interests, and all sales are conducted in the situs state, the department may accept a submission of the filing and order from the situs state showing approval has been granted. The submission may be evidence that the broker has satisfied the requirement of R 339.22507.

(5) For out-of-state property offered through a Michigan broker in the state of Michigan, the application for approval shall contain all information as specified in R 339.22501 through R 339.22513.

(6) For purposes of approval under section 2511 of the code, an application and fee for approval from a Michigan licensed broker shall accompany all out-of-state property registrations, including those submissions that have been approved under 1972 P.A. 286, MCL 565.801 et seq.

History: 1991 MR 4, Effective May 1, 1991. Amended 2002, MR 16. Effective September 1, 2002.

R 339.22517 Investigation of applications; on-site inspections.

Rule 517. Upon receipt of a broker's application for approval, the department shall investigate the matters contained therein and may make on-site inspections of the property the broker intends to offer.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22519 Investigation expenses other than on-site inspection expenses; deposit of estimated expenses for on-site inspection.

Rule 519. A broker shall pay the department a fee of \$500.00 to cover investigation expenses when submitting the application for department approval. The fee does not include the cost of an on-site inspection.

History: 1991 MR 4, Effective May 1, 1991. Amended 2002, MR 16. Effective September 1, 2002.

R 339.22521 Deposit of estimated expenses for on-site inspection.

Rule 521. Where an on-site inspection of the property is deemed necessary by the department, the broker shall deposit with the department estimated expenses for the inspection of the property in an amount set by the department.

History: 1991 MR 4, Effective May 1, 1991.

R 339.22523 Approval to engage in sales of promotional nature; form; duration.

Rule 523. (1) The approval of brokers to engage in sales of a promotional nature pursuant to section 2511 of the code shall be in the form of an order and shall be effective for 1 year from the date of issuance.

(2) A broker shall annually renew the order of approval to engage in sales of a promotional nature, pursuant to section 2511 of the code, and shall bear the costs incurred by the department in investigating the application.

History: 1991 MR 4, Effective May 1, 1991. Amended 2002, MR 16. Effective September 1, 2002.

R 339.22525 Rescinded.

History: 1991 MR 4, Eff. May 1, 1991. Rescinded 2002, MR 16. Effective September 1, 2002.

R 339.22527 Broker holding order of approval to engage in sales of promotional nature; notice of changes.

Rule 527. A broker who holds an order of approval to engage in sales of a promotional nature pursuant to section 2511 of the code shall notify the department immediately of any material change in the information required by R 339.22505 to R 339.22513.

History: 1991 MR 4, Effective May 1, 1991. Amended 2002, MR 16. Effective September 1, 2002.

R 339.22529 Broker misrepresentation prohibited.

Rule 529. A broker or his or her agent shall not represent to any person that the department has inspected, investigated, or approved the quality, value, or merit of any offering.

History: 1991 MR 4, Effective May 1, 1991.