

1998 PUBLIC AND LOCAL ACTS

[No. 90]

(SB 402)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 316, 2005, 2515, and 2518 (MCL 339.316, 339.2005, 339.2515, and 339.2518), section 2005 as amended by 1992 PA 103 and section 2515 as amended and section 2518 as added by 1993 PA 93.

The People of the State of Michigan enact:

339.316 Examination or test; development; consideration of material in closed session; alternative form of testing. [M.S.A. 18.425(316)]

Sec. 316. (1) Unless otherwise provided in an article, a board and the department shall develop an examination or test required by an article. The board and the department in developing an examination or test may adopt an examination or test prepared by another agency if the board and the department determine that the examination or test serves as a basis for determining whether a person has the knowledge and skills to perform an occupation with competence.

(2) The material required by the board and the department to develop an examination or test may be considered by the board in a closed session, if the board meets the requirements of section 7 of the open meetings act, 1976 PA 267, MCL 15.267.

(3) A board and the department, in determining the form the recommended examination or test shall take, shall give special emphasis to an alternative form of testing which permits a person to demonstrate a special qualification a person may have which is not evident under a written examination, but which is related to an occupation. The alternative form of testing shall be structured to give weight to a person's experience, noninstitutional training, and innate skills and shall be flexible enough to enable a person with a mental or physical disability to demonstrate that the person has the requisite knowledge and skills.

339.2005 Architect, professional engineer, and professional surveyor; examination; requirements; frequency and results of examination; individual with mental or physical disability; completion of requirements for licensure. [M.S.A. 18.425(2005)]

Sec. 2005. (1) To be examined as an architect, an applicant shall meet all of the following requirements:

(a) Provide documentation of not less than 8 years of professional experience in architectural work satisfactory to the board of architects, including not more than 6 years of education.

(b) Provide evidence of completion of a first professional degree or further degree in architecture satisfactory to the board of architects.

(c) Provide not less than 5 references, 3 of which shall be references from licensed architects who have personal knowledge of the applicant's professional experience.

1998 PUBLIC AND LOCAL ACTS

(2) In order to be examined as a professional engineer, an individual shall meet all of the following requirements for admission to the professional practice examination:

(a) Provide documentation of not less than 8 years of professional experience in engineering work acceptable to the board of professional engineers, including not more than 6 years of education.

(b) Provide evidence of completion of a baccalaureate degree in engineering from an accredited program or its equivalent, as determined by the board of professional engineers.

(c) Provide not less than 5 references, 3 of which shall be from professional engineers who have personal knowledge of the applicant's professional experience.

(3) In order to be examined as a professional surveyor, an individual shall meet all of the following requirements:

(a) For admission to the professional surveying fundamentals examination, an applicant shall provide an affidavit stating that a degree acceptable to the board shall be completed not later than 6 months after the date of the examination.

(b) For admission to the professional practice examination, an applicant shall provide all of the following:

(i) Documentation of not less than 8 years of professional experience in professional surveying satisfactory to the board of professional surveyors, including not more than 5 years of education.

(ii) Evidence of completion of a degree in professional surveying or a related degree with professional surveying courses acceptable to the board of professional surveyors.

(iii) Not less than 5 references, 3 of which shall be from licensed professional surveyors who have personal knowledge of the applicant's professional experience.

(4) The examination required by this article shall be given at least once a year.

(5) An examinee shall be notified in writing of the examinee's results on each part of the examination.

(6) Notwithstanding section 316(3), an individual with a mental or physical disability may be tested using special equipment, facilities, or assistance. However, the examination shall not be varied in form, content, or the format in which answers are submitted.

(7) All requirements for licensure shall be completed within 10 years after receipt of the application by the department. If the requirements are not completed within the 10-year period, the application shall be void.

339.2515 Listing agreement; discrimination prohibited; burden of proof; legal and equitable remedies. [M.S.A. 18.425(2515)]

Sec. 2515. (1) A listing agreement entered into between the broker and seller or lessor of property shall contain language that discrimination because of religion, race, color, national origin, age, sex, disability, familial status, or marital status on the part of the real estate broker, real estate salesperson, seller, or lessor is prohibited.

(2) This article shall not authorize the department to assume any facts not in evidence or compel a party to prove innocence of charges before the charges have been proven by the department. The department shall at all times bear the burden of proof to all charges made against a party.

(3) This article shall not diminish the right of a party to pursue and utilize direct and immediate legal or equitable remedies in a court of competent jurisdiction.

1998 PUBLIC AND LOCAL ACTS

339.2518 Prohibited actions. [M.S.A. 18.425(2518)]

Sec. 2518. An action shall not be brought against a real estate broker, an associate broker, or a real estate salesperson under the following circumstances:

(a) For failure to disclose to a purchaser or lessee of real property that a former occupant has or is suspected of having a disability. As used in this section, "disability" means handicap as that term is defined and interpreted under, and disclosure of which would constitute unlawful discrimination under, sections 804, 805, 806, or 817 of the fair housing act, title VIII of the civil rights act of 1968, Public Law 90-284, 42 U.S.C. 3604, 3605, 3606, and 3617.

(b) For failure to disclose to a purchaser or lessee of real property that the real property was or was suspected to have been the site of a homicide, suicide, or other occurrence prohibited by law which had no material effect on the condition of the real property or improvements located on the real property.

This act is ordered to take immediate effect.

Approved May 13, 1998.

Filed with Secretary of State May 13, 1998.
