

HOUSE BILL No. 4849

May 31, 2005, Introduced by Reps. Schuitmaker, Green, Jones, McDowell, Wojno, Gaffney, Alma Smith, Lemmons, Jr., Sheltroun, Palsrok and Lemmons, III and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 2512 (MCL 339.2512), as amended by 2002 PA 42,
and by adding section 2512d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2512. A licensee who commits 1 or more of the following
2 is subject to the penalties set forth in article 6:

3 (a) Except in a case involving property management, acts for
4 more than 1 party in a transaction without the knowledge of the
5 parties.

6 (b) Fails to provide a written agency disclosure to a
7 prospective buyer or seller in a real estate transaction as defined
8 in section 2517.

1 (c) Represents or attempts to represent a real estate broker
2 other than the employer without the express knowledge and consent
3 of the employer.

4 (d) Fails to account for or to remit money coming into the
5 licensee's possession which belongs to others.

6 (e) Changes a business location without notification to the
7 department.

8 (f) In the case of a real estate broker, fails to return a
9 real estate salesperson's license within 5 days as provided in
10 section 2507.

11 (g) In the case of a licensee engaged in property management,
12 violates section 2512c(2), (5), or (6).

13 (h) Except as provided in section 2512b, shares or pays a fee,
14 commission, or other valuable consideration to a person not
15 licensed under this article including payment to any person
16 providing the names of, or any other information regarding, a
17 potential seller or purchaser of real estate but excluding payment
18 for the purchase of commercially prepared lists of names. However,
19 a licensed real estate broker may pay a commission to a licensed
20 real estate broker of another state if the nonresident real estate
21 broker does not conduct in this state a negotiation for which a
22 commission is paid.

23 (i) Conducts or develops a market analysis not in compliance
24 with section 2601(a)(ii).

25 **(J) FAILS TO PROVIDE THE MINIMUM SERVICES AS SPECIFIED IN**
26 **SECTION 2512D WHEN PROVIDING SERVICES PURSUANT TO AN EXCLUSIVE**
27 **SERVICE PROVISION AGREEMENT.**

1 **(K)** ~~-(j)-~~ Except in the case of property management accounts,
2 fails to deposit in the real estate broker's custodial trust or
3 escrow account money belonging to others coming into the hands of
4 the licensee in compliance with the following:

5 (i) A real estate broker shall retain a deposit or other money
6 made payable to a person, partnership, corporation, or association
7 holding a real estate broker's license under this article pending
8 consummation or termination of the transaction involved and shall
9 account for the full amount of the money at the time of the
10 consummation or termination of the transaction.

11 (ii) A real estate salesperson shall pay over to the real
12 estate broker, upon receipt, a deposit or other money on a
13 transaction in which the real estate salesperson is engaged on
14 behalf of the real estate broker.

15 (iii) A real estate broker shall not permit an advance payment
16 of funds belonging to others to be deposited in the real estate
17 broker's business or personal account or to be commingled with
18 funds on deposit belonging to the real estate broker.

19 (iv) A real estate broker shall deposit, within 2 banking days
20 after the broker has received notice that an offer to purchase is
21 accepted by all parties, money belonging to others made payable to
22 the real estate broker into a separate custodial trust or escrow
23 account maintained by the real estate broker with a bank, savings
24 and loan association, credit union, or recognized depository until
25 the transaction involved is consummated or terminated, at which
26 time the real estate broker shall account for the full amount
27 received.

1 (v) A real estate broker shall keep records of funds deposited
2 in its custodial trust or escrow account, which records shall
3 indicate clearly the date and from whom the money was received, the
4 date deposited, the date of withdrawal, and other pertinent
5 information concerning the transaction, and shall show clearly for
6 whose account the money is deposited and to whom the money belongs.
7 The records shall be subject to inspection by the department. A
8 real estate broker's separate custodial trust or escrow account
9 shall designate the real estate broker as trustee, and the
10 custodial trust or escrow account shall provide for withdrawal of
11 funds without previous notice. This article and the rules
12 promulgated pursuant to this article do not prohibit the deposit of
13 money accepted under this section in a noninterest bearing account
14 of a state or federally chartered savings and loan association or a
15 state or federally chartered credit union.

16 (vi) If a purchase agreement signed by a seller and purchaser
17 provides that a deposit be held by an escrowee other than a real
18 estate broker, a licensee in possession of such a deposit shall
19 cause the deposit to be delivered to the named escrowee within 2
20 banking days after the licensee has received notice that an offer
21 to purchase is accepted by all parties.

22 **SEC. 2512D. A REAL ESTATE BROKER ACTING PURSUANT TO A SERVICE**
23 **PROVISION AGREEMENT CREATING AN EXCLUSIVE AGENCY RELATIONSHIP**
24 **SHALL, AT A MINIMUM, PROVIDE THE FOLLOWING SERVICES TO HIS OR HER**
25 **CLIENT:**

26 **(A) WHEN THE REAL ESTATE BROKER IS REPRESENTING A SELLER OR**
27 **LESSOR, THE MARKETING OF THE CLIENT'S PROPERTY IN THE MANNER AGREED**

1 UPON IN THE SERVICE PROVISION AGREEMENT.

2 (B) ACCEPTANCE OF DELIVERY AND PRESENTATION OF OFFERS AND
3 COUNTEROFFERS TO BUY, SELL, OR LEASE THE CLIENT'S PROPERTY OR THE
4 PROPERTY THE CLIENT SEEKS TO PURCHASE OR LEASE.

5 (C) ASSISTANCE IN DEVELOPING, COMMUNICATING, NEGOTIATING, AND
6 PRESENTING OFFERS, COUNTEROFFERS, AND RELATED DOCUMENTS OR NOTICES
7 UNTIL A PURCHASE OR LEASE AGREEMENT IS EXECUTED BY ALL PARTIES AND
8 ALL CONTINGENCIES ARE SATISFIED OR WAIVED.

9 (D) AFTER EXECUTION OF A PURCHASE AGREEMENT BY ALL PARTIES,
10 ASSISTANCE AS NECESSARY TO COMPLETE THE TRANSACTION UNDER THE TERMS
11 SPECIFIED IN THE PURCHASE AGREEMENT.

12 (E) FURNISHING, OR CAUSING TO BE FURNISHED, A COMPLETE AND
13 DETAILED CLOSING STATEMENT AS REQUIRED BY R 339.22311 OF THE
14 MICHIGAN ADMINISTRATIVE CODE.

15 Enacting section 1. This amendatory act does not take effect
16 unless Senate Bill No.____ or House Bill No. 4850(request no.
17 03309'05) of the 93rd Legislature is enacted into law.