

# HOUSE BILL No. 6056

April 21, 2010, Introduced by Rep. Polidori 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 2008 PA 90  
and by adding section 2516.

## 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.

9       (c) Represents or attempts to represent a real estate broker

1 other than the employer without the express knowledge and consent  
2 of the employer.

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

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

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

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

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

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

24 (j) Fails to provide the minimum services as specified in  
25 section 2512d(3) when providing services pursuant to a service  
26 provision agreement unless expressly waived in writing by the  
27 client under section ~~2517(3)~~ **2517(4)**.

1           (K) FAILS TO CONVEY AN OFFER TO PURCHASE TO AN OWNER AND TO  
2 THE FINANCIAL INSTITUTION, BANK, OR OTHER ENTITY HOLDING THE  
3 MORTGAGE THAT HAS COMMENCED A FORECLOSURE PROCEEDING DURING THE  
4 TIME THE PROCEEDING IS PENDING OR WITHIN THE REDEMPTION PERIOD IN  
5 THE CASE OF A COMPLETED FORECLOSURE, IN VIOLATION OF SECTION 2516.

6           (I) IN THE CASE OF REAL ESTATE SUBJECT TO FORECLOSURE, FAILS TO  
7 OBTAIN, WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF THE OFFER TO  
8 PURCHASE, A LETTER OF ACCEPTANCE OR REJECTION FROM THE FINANCIAL  
9 INSTITUTION, BANK, OR OTHER ENTITY HOLDING THE MORTGAGE OR FAILS TO  
10 IMMEDIATELY CONVEY A LETTER OF ACCEPTANCE OR REJECTION, IN  
11 VIOLATION OF SECTION 2516.

12           (M) ~~(K)~~—Except in the case of property management accounts,  
13 fails to deposit in the real estate broker's custodial trust or  
14 escrow account money belonging to others coming into the hands of  
15 the licensee in compliance with the following:

16           (i) A real estate broker shall retain a deposit or other money  
17 made payable to a person, partnership, corporation, or association  
18 holding a real estate broker's license under this article pending  
19 consummation or termination of the transaction involved and shall  
20 account for the full amount of the money at the time of the  
21 consummation or termination of the transaction.

22           (ii) A real estate salesperson shall pay over to the real  
23 estate broker, upon receipt, a deposit or other money on a  
24 transaction in which the real estate salesperson is engaged on  
25 behalf of the real estate broker.

26           (iii) A real estate broker shall not permit an advance payment  
27 of funds belonging to others to be deposited in the real estate

1 broker's business or personal account or to be commingled with  
2 funds on deposit belonging to the real estate broker.

3 (iv) A real estate broker shall deposit, within 2 banking days  
4 after the broker has received notice that an offer to purchase is  
5 accepted by all parties, money belonging to others made payable to  
6 the real estate broker into a separate custodial trust or escrow  
7 account maintained by the real estate broker with a bank, savings  
8 and loan association, credit union, or recognized depository until  
9 the transaction involved is consummated or terminated, at which  
10 time the real estate broker shall account for the full amount  
11 received.

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

27 (vi) If a purchase agreement signed by a seller and purchaser

1 provides that a deposit be held by an escrowee other than a real  
2 estate broker, a licensee in possession of such a deposit shall  
3 cause the deposit to be delivered to the named escrowee within 2  
4 banking days after the licensee has received notice that an offer  
5 to purchase is accepted by all parties.

6       SEC. 2516. A REAL ESTATE SALESPERSON SHALL DO BOTH OF THE  
7 FOLLOWING, AS APPLICABLE:

8       (A) CONVEY AN OFFER TO PURCHASE TO THE OWNER OF REAL ESTATE  
9 AND, IF AN ACTION FOR FORECLOSURE HAS BEEN COMMENCED AGAINST THE  
10 REAL ESTATE, TO THE FINANCIAL INSTITUTION, BANK, OR OTHER ENTITY  
11 HOLDING THE MORTGAGE. IN THE CASE OF REAL ESTATE SUBJECT TO  
12 FORECLOSURE, THE OFFER SHALL BE CONVEYED TO THE FINANCIAL  
13 INSTITUTION, BANK, OR OTHER ENTITY HOLDING THE MORTGAGE DURING THE  
14 TIME OF THE FORECLOSURE ACTION, INCLUDING THE REDEMPTION PERIOD.

15       (B) IN THE CASE OF REAL ESTATE SUBJECT TO FORECLOSURE, THE  
16 REAL ESTATE SALESPERSON SHALL OBTAIN, WITHIN 5 BUSINESS DAYS AFTER  
17 RECEIPT OF THE OFFER TO PURCHASE, A LETTER OF ACCEPTANCE OR  
18 REJECTION FROM THE FINANCIAL INSTITUTION, BANK, OR OTHER ENTITY  
19 HOLDING THE MORTGAGE. THE LETTER OF ACCEPTANCE OR REJECTION SHALL  
20 BE IMMEDIATELY CONVEYED TO THE OFFEROR OR THE BUYER'S AGENT, AS  
21 APPLICABLE.