

Legislative Analysis



REAL ESTATE SALESPERSONS: ELIMINATE CUSTODIAL CONTROL OF LICENSE BY BROKER

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House Bill 4113

Sponsor: Rep. Nancy Jenkins

Committee: Regulatory Reform

Complete to 2-15-11

A SUMMARY OF HOUSE BILL 4113 AS INTRODUCED 1-20-11

Under the bill, the license of a real estate salesperson would no longer be in the custody and control of the employing real estate broker, nor would it have to be publicly displayed by the broker.

Currently, provisions of the Occupational Code require the license of a real estate salesperson to be mailed by the Department of Energy, Labor, and Economic Growth (DELEG) to the real estate broker who employs the salesperson. The salesperson's license must be kept in the custody and control of the broker. The licenses of each salesperson employed by the broker, as well as the broker's license, must be conspicuously displayed in the broker's place of business.

House Bill 4113 would amend the Occupational Code to delete the above requirements. Instead, the bill would require a real estate salesperson to provide proof to the employing broker that he or she has been issued and currently holds a real estate salesperson license.

In addition, DELEG is required, without payment of an additional fee, to issue a temporary license to a real estate salesperson who has met all requirements for licensure if the department is unable to issue a license within two weeks of the licensure requirements being met. This provision would also be deleted.

A provision requiring written notice to be given to the department by a licensee of a change of either a principal or branch business location would remain unchanged. However, by deleting all references in the section to a "broker," it is no longer clear that this provision applies to when a licensed broker relocates his office or a branch office to a new location (a branch license must be secured for branch location).

MCL 339.2506

[Note: The paper wall license currently acts as the official real estate license. DELEG does not issue an official license directly to a real estate salesperson. Thus, as written, the bill is unclear as to whom DELEG would have the authority to issue the official license.

In addition, the bill's amendments to Section 2506 of the code would conflict with other sections of the Occupational Code that reference a broker's duties in relation to the broker having custody of the salesperson's paper wall license.

For instance, Section 2507 requires a broker to deliver or mail the paper wall license to DELEG within five days of the salesperson's termination of employment (voluntary or involuntary). With narrow exceptions, a real estate salesperson is prohibited from engaging in the practice of the profession until the new broker with whom the salesperson will be employed receives a new paper wall license from DELEG. This process includes the return of the original paper wall license from the broker, the return of the pocket card by the salesperson, and a transfer of license application with the new broker's information and signature submitted to the department.

Section 2512 imposes license sanctions on licensees that include an administrative fine of up to \$10,000 for a broker who does not return the paper wall license of a former salesperson within the five-day period required under Section 2507.

Further, amendments to administrative rules promulgated to implement the current statutory requirements regarding the custody of paper wall licenses by brokers and transfer of a salesperson's license would likely be needed.]

FISCAL IMPACT:

The bill has no budgetary impact for the Department of Energy, Labor, and Economic Growth.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.