

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

339.2501 Definitions.

Sec. 2501.

As used in this article:

(a) "Associate broker" or "associate real estate broker" means an individual who meets the requirements for licensure as a real estate broker under this article and who is licensed as an associate real estate broker under section 2505 to provide real estate brokerage services as an employee or independent contractor of a real estate broker.

(b) "Business entity" means a person described in section 105(5)(b) or (c), except a sole proprietorship.

(c) "Classroom course" means an educational course of instruction that is provided at either of the following:

(i) A physical location where instruction is offered and students and an instructor are present.

(ii) A location where a student receives instruction provided by distance learning.

(d) "Clock hour" means either of the following:

(i) For a classroom course at a location described in subdivision (c)(i), a period of 50 to 60 minutes of actual classroom instruction, not including outside assignments and reading.

(ii) For a classroom course at a location described in subdivision (c)(ii), the period required for a student to process the amount of material provided in 50 minutes of distance learning instruction.

(e) "Control person" means an individual who is a sole proprietor, is a partner in a partnership or limited partnership, is an officer, director, or shareholder in a corporation, is a member or manager in a limited liability company, or holds a responsible position in any other form of business entity authorized under the laws of this state or the state in which the entity is organized or formed.

(f) "Distance learning" means the technology and educational process used to provide instruction to a student when the student and the instructor are not necessarily physically present at the same time or place. The term includes, but is not limited to, instruction provided through an interactive classroom, computer conferencing, or an interactive computer system.

(g) "Employ" or "employment" means the relationship between a real estate broker and an associate real estate broker or a real estate salesperson which may include an independent contractor relationship. The existence of an independent contractor relationship between a real estate broker and an individual licensed to the real estate broker does not relieve the real estate broker of the responsibility to supervise acts of the licensee that are regulated under this article.

(h) "Independent contractor relationship" means a relationship between a real estate broker and an associate real estate broker or real estate salesperson that satisfies both of the following conditions:

(i) A written agreement exists in which the real estate broker does not consider the associate real estate broker or real estate salesperson as an employee for federal and state income tax purposes.

(ii) At least 75% of the annual compensation paid by the real estate broker to the associate real estate broker or real estate salesperson is from commissions from the sale of real estate.

(i) "License cycle" means the term of a license issued under this article.

(j) "Limited service agreement" means a written service provision agreement by which a real estate broker and client establish an agency relationship in which certain enumerated services, as set forth in section 2512d(3)(b), (c), and (d), are knowingly waived in whole or part by the client.

(k) "Negotiate the mortgage of real estate" means engaging in activity in connection with a mortgage that is not regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to MCL 493.81, or the mortgage loan originator licensing act, 2009 PA 75, MCL 493.131 to 493.171.

(l) A "nonprincipal" of a real estate broker means a control person who is licensed as an associate real estate broker under this article, but is not designated as a principal under section 2505(1).

(m) "Place of business" means a physical location that a real estate broker, by advertisement, signage, or otherwise, represents to the public is a place where clients and customers may consult or do business with a licensee.

(n) "Pocket card" means the card that contains information about a licensee's license that the department provides under section 2506 when it issues a license under this article.

(o) "Prelicensure course" means a course that is represented to the public as fulfilling, in whole or in part, the requirements of section 2504.

(p) A "principal" of a real estate broker means a control person who is licensed as an associate real estate broker and is designated as a principal under section 2505(1).

(q) "Professional designation" means a certification from a real estate professional association that demonstrates

that an individual has attained proven skills or education in a real estate occupational area and may include the right to use a title or letters after the licensee's name that represent the designation awarded by the certifying entity.

(r) "Property management" means leasing or renting, or offering to lease or rent, real property of others for a fee, commission, compensation, or other valuable consideration pursuant to a property management employment contract.

(s) "Property management account" means an interest-bearing or noninterest-bearing account or instrument used in the operation of property management.

(t) "Property management employment contract" means a written agreement that is entered into between a real estate broker and client concerning the real estate broker's employment as a property manager for the client; that describes the real estate broker's duties, responsibilities, and activities as a property manager; and that describes the handling, management, safekeeping, investment, disbursement, and use of property management money, funds, and accounts.

(u) "Real estate broker" means an individual or business entity that, with intent to collect or receive a fee, compensation, or valuable consideration, sells or offers for sale, buys or offers to buy, provides or offers to provide market analyses of, lists or offers or attempts to list, or negotiates the purchase, sale, or exchange of real estate; that negotiates the mortgage of real estate; that negotiates for the construction of a building on real estate; that leases or offers or rents or offers for rent real estate or the improvements on the real estate for others, as a whole or partial vocation; that engages in property management as a whole or partial vocation; that sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others; or that, as owner or otherwise, engages in the sale of real estate as a principal vocation.

(v) "Real estate salesperson" means an individual who for compensation or valuable consideration is employed either directly or indirectly by a licensed real estate broker to sell or offer to sell, buy or offer to buy, provide or offer to provide market analyses of, list or offer or attempt to list, or negotiate the purchase, sale, or exchange of real estate; to negotiate the mortgage of real estate; to negotiate for the construction of a building on real estate, or to lease or offer to lease, or rent or offer for rent, real estate; who is employed by a real estate broker to engage in property management; or who sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others, as a whole or partial vocation.

(w) "Right-to-list home sale agreement" means an agreement between an owner of residential real estate and a real estate broker that obligates the owner to list the residential real estate for sale with the real estate broker at a future date in exchange for consideration. As used in this subdivision, "residential real estate" means the type of real estate described in section 2517(3). Right-to-list home sale agreement does not include a service provision agreement.

(x) "Service provision agreement" means a buyer agency agreement or listing agreement that is executed by a real estate broker and a client and establishes an agency relationship.

(y) "Sponsor" means a person that represents to the public that the courses it conducts for purposes of this article fulfill the requirements of section 2504a for continuing education.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988 ;-- Am. 1990, Act 269, Eff. July 1, 1991 ;-- Am. 1993, Act 93, Imd. Eff. July 13, 1993 ;-- Am. 1994, Act 333, Imd. Eff. Oct. 18, 1994 ;-- Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003 ;-- Am. 2008, Act 90, Eff. July 1, 2008 ;-- Am. 2016, Act 502, Eff. Mar. 29, 2017 ;-- Am. 2024, Act 122, Imd. Eff. July 25, 2024

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299