

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

***** 339.2512.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2017 *****

339.2512.amended Prohibited conduct; penalties; filing complaint under article 5.

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

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

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

(c) If the licensee is an associate real estate broker or real estate salesperson, represents or attempts to represent a real estate broker other than his or her employer without the express knowledge and consent of the employer.

(d) Fails to account for or to remit money that comes into the licensee's possession that belongs to others.

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

(f) If the licensee is a real estate broker, fails to return a real estate salesperson's license within 5 days under section 2507.

(g) If the licensee engaged in property management, violates section 2512c(2), (5), or (6).

(h) Except as provided in section 2510(2), shares or pays a fee, commission, or other valuable consideration to a person that is not licensed under this article, including payment to any person that provides the name of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of a commercially prepared list of names. However, a licensed real estate broker may pay a commission to a real estate broker that is licensed by another state if the nonresident real estate broker does not conduct in this state a negotiation for which a commission is paid.

(i) Conducts or develops a market analysis that does not comply with section 2601(a)(ii).

(j) Fails to provide the minimum services specified under section 2512d(3) when providing services under a service provision agreement unless expressly waived in writing by the client under section 2517(2).

(k) Except in connection with a property management account, fails to deposit money in its possession that belongs to another person in a custodial trust or escrow account that is maintained by the real estate broker, in a manner that complies with all of the following:

(i) A real estate broker shall retain a deposit or other money made payable to a person that holds a real estate broker's license under this article pending consummation or termination of the transaction involved and shall account for the full amount of the money at the time of the consummation or termination of the transaction.

(ii) A real estate salesperson shall pay or deliver to the real estate broker, on receipt, a deposit or other money paid in connection with a transaction in which the real estate salesperson is engaged on behalf of the real estate broker.

(iii) A real estate broker shall not deposit or permit the deposit of an advance payment of money that belongs to others in the real estate broker's business or personal account or commingle or permit the commingling of that money with funds on deposit that belong to the real estate broker.

(iv) A real estate broker may maintain more than 1 trust account. A real estate broker may deposit not more than \$2,000.00 of its own money in each trust account to cover bank service charges and bank minimum balance requirements or to avoid the closing of the account because there is no money in the account. The real estate broker shall account for any of its own money in a trust account in the records described in subparagraph (vi).

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

(vi) A real estate broker shall keep records of money deposited in its custodial trust or escrow account, and indicate clearly in those records the date and from whom the money was received, the date deposited, the date of withdrawal, and other pertinent information concerning the transaction and shall show clearly for whose account the money is deposited and to whom the money belongs. The records are subject to inspection by the department. A real estate broker's separate custodial trust or escrow account shall designate the real estate broker as trustee, and the custodial trust or escrow account shall provide for withdrawal of funds without

previous notice. This article and the rules promulgated under this article do not prohibit the deposit of money accepted under this section in a noninterest bearing account of a state or federally chartered savings and loan association or a state or federally chartered credit union.

(vii) If a purchase agreement signed by a seller and purchaser provides that an escrowee other than a real estate broker shall hold a deposit, a licensee in possession of that deposit shall cause the deposit to be delivered to the named escrowee within 2 banking days after the licensee receives notice that an offer to purchase is accepted by all parties.

(2) A complaint that seeks a penalty under article 5 for a violation of this section must be filed within 18 months after 1 of the following dates, whichever occurs later:

(a) The date of the alleged violation.

(b) If the alleged violation occurs in connection with a real estate transaction, the date the transaction is completed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1993, Act 93, Imd. Eff. July 13, 1993;—Am. 1993, Act 177, Imd. Eff. Sept. 29, 1993;—Am. 1994, Act 125, Imd. Eff. May 16, 1994;—Am. 1994, Act 333, Imd. Eff. Oct. 18, 1994;—Am. 1996, Act 430, Eff. Jan. 1, 1997;—Am. 2000, Act 436, Imd. Eff. Jan. 9, 2001;—Am. 2002, Act 42, Imd. Eff. Mar. 12, 2002;—Am. 2008, Act 90, Eff. July 1, 2008;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299