

# HOUSE BILL No. 5324

November 14, 1991, Introduced by Reps. McNutt, Oxender, Middleton, Willis Bullard and Bobier and referred to the Committee on State Affairs.

A bill to amend section 2512 of Act No. 299 of the Public Acts of 1980, entitled as amended

"Occupational code,"

being section 339.2512 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2512 of Act No. 299 of the Public Acts  
2 of 1980, being section 339.2512 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 2512. ~~(++)~~ A licensee WHO COMMITS 1 OF THE FOLLOWING  
5 shall be subject to the penalties set forth in article 6: ~~who~~  
6 ~~commits 1 of the following.~~

7 (a) Acting for more than 1 party in a transaction without  
8 the knowledge of the parties.

1 (b) Representing or attempting to represent a real estate  
2 broker other than the employer, without the express knowledge and  
3 consent of the employer.

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

6 (d) Changing a business location without notification to the  
7 ~~commission~~ BOARD.

8 (e) If a real estate broker, failing to return a real estate  
9 salesperson's license within 5 days as provided in section 2507.

10 (f) Paying a commission or valuable consideration to a  
11 person not licensed under this article. However, a licensed real  
12 estate broker may pay a commission to a licensed real estate  
13 broker of another state if the nonresident real estate broker  
14 does not conduct in this state a negotiation for which a commis-  
15 sion is paid.

16 (g) Failing to deposit in a custodial trust or escrow  
17 account money belonging to others coming into the hands of the  
18 licensee in compliance with the following:

19 (i) A deposit or other money accepted by a person, partner-  
20 ship, corporation, or association holding a real estate broker's  
21 license under this article shall be retained by a real estate  
22 broker pending consummation or termination of the transaction  
23 involved, and shall be accounted for in the full amount of the  
24 money at the time of the consummation or termination OF THE  
25 TRANSACTION.

26 (ii) A real estate salesperson, ~~on~~ UPON receipt of a  
27 deposit or other money on a transaction in which the real estate

1 salesperson is engaged on behalf of a real estate  
2 broker-employer, shall pay over the deposit or other money to the  
3 real estate broker.

4 (iii) A real estate broker shall not permit an advance pay-  
5 ment of funds belonging to others to be deposited in the real  
6 estate broker's business or personal account or to be commingled  
7 with funds on deposit belonging to the real estate broker.

8 (iv) A real estate broker shall deposit within 2 banking  
9 days after the signing of a purchase agreement by all parties,  
10 but not later than 5 days after receipt, money belonging to  
11 others in a separate custodial ~~or~~ trust ~~fund~~ OR ESCROW  
12 account maintained by the real estate broker with a bank, savings  
13 and loan association, credit union, or recognized depository  
14 until the transaction involved is consummated or terminated, at  
15 which time the real estate broker shall account for the full  
16 amount received.

17 (v) A real estate broker shall keep records of funds depos-  
18 ited in ~~an~~ A CUSTODIAL TRUST OR ESCROW account, which records  
19 shall indicate clearly the date and from whom the money was  
20 received, the date deposited, the date of withdrawal, and other  
21 pertinent information concerning the transaction, and shall show  
22 clearly for whose account the money is deposited and to whom the  
23 money belongs. The records shall be subject to inspection by the  
24 department. A separate custodial ~~or~~ trust ~~fund~~ OR ESCROW  
25 account shall designate the real estate broker as trustee ~~and~~  
26 ~~the account~~ shall provide for withdrawal of funds without  
27 previous notice. ~~This act and the rules promulgated pursuant to~~

1 ~~this act shall not be construed to prohibit the deposit of money~~  
2 ~~accepted under this act in a noninterest bearing account of a~~  
3 ~~state or federally chartered savings and loan association, or a~~  
4 ~~state or federally chartered credit union.~~ THE CUSTODIAL TRUST  
5 OR ESCROW ACCOUNT SHALL BE INTEREST-BEARING AND OTHERWISE IN COM-  
6 PLIANCE WITH STANDARDS ESTABLISHED BY RULES OF THE DEPARTMENT.  
7 THE INTEREST SHALL BE DEPOSITED IN A MANNER PRESCRIBED BY RULES  
8 OF THE DEPARTMENT INTO THE HOUSING DEVELOPMENT FUND ESTABLISHED  
9 IN SECTION 23 OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF  
10 1966, ACT NO. 346 OF THE PUBLIC ACTS OF 1966, BEING  
11 SECTION 125.1423 OF THE MICHIGAN COMPILED LAWS, FOR USE IN THE  
12 MANNER PRESCRIBED BY LAW.