

Act No. 177
Public Acts of 1993
Approved by the Governor
September 29, 1993
Filed with the Secretary of State
September 29, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Hart, Wartner, Cherry, Smith, Miller, McManus, Pollack, Conroy and DiNello

ENROLLED SENATE BILL No. 480

AN ACT to amend section 2512 of Act No. 299 of the Public Acts of 1980, entitled as amended "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," as amended by Act No. 93 of the Public Acts of 1993, being section 339.2512 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 2512 of Act No. 299 of the Public Acts of 1980, as amended by Act No. 93 of the Public Acts of 1993, being section 339.2512 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 2512. A licensee shall be subject to the penalties set forth in article 6 who commits 1 of the following:

- (a) Acting for more than 1 party in a transaction without the knowledge of the parties.
- (b) Beginning January 1, 1994, failing to provide a written agency disclosure to a prospective buyer or seller in a real estate transaction.
- (c) Representing or attempting to represent a real estate broker other than the employer, without the express knowledge and consent of the employer.
- (d) Failure to account for or to remit money coming into the licensee's possession which belongs to others.
- (e) Changing a business location without notification to the department.
- (f) In the case of a real estate broker, failing to return a real estate salesperson's license within 5 days as provided in section 2507.
- (g) Except as provided in section 2512b, sharing or paying a fee, commission, or valuable consideration to a person not licensed under this article including payment to any person providing the names of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of commercially prepared lists of names. However, a licensed real estate broker may pay a commission to a licensed real estate broker of another state if the nonresident real estate broker does not conduct in this state a negotiation for which a commission is paid.
- (h) Failing to deposit in a custodial trust or escrow account money belonging to others coming into the hands of the licensee in compliance with the following:

(i) A deposit or other money accepted by a person, partnership, corporation, or association holding a real estate broker's license under this article shall be retained by a real estate broker pending consummation or termination of the transaction involved, and shall be accounted for in the full amount of the money at the time of the consummation or termination.

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

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

(iv) A real estate broker shall deposit within 2 banking days after the signing of a purchase agreement by all parties, but not later than 5 days after receipt, money belonging to others in 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.

(v) A real estate broker shall keep records of funds deposited in a custodial trust or escrow account, which records shall indicate clearly 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 shall be subject to inspection by the department. A 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 act and the rules promulgated pursuant to this act shall not be construed to prohibit the deposit of money accepted under this act in a noninterest bearing account of a state or federally chartered savings and loan association or a state or federally chartered credit union.

Section 2. This amendatory act shall not take effect unless House Bill No. 4269 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.