



SENATE BILL No. 70

January 13, 1993, Introduced by Senator PRIDNIA and referred to the Committee on State Affairs and Military/Veteran Affairs.

A bill to amend sections 2501 and 2512 of Act No. 299 of the Public Acts of 1980, entitled as amended "Occupational code,"

section 2501 as amended by Act No. 269 of the Public Acts of 1990, being sections 339.2501 and 339.2512 of the Michigan Compiled Laws; and to add section 2512c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2501 and 2512 of Act No. 299 of the
2 Public Acts of 1980, section 2501 as amended by Act No. 269 of
3 the Public Acts of 1990, being sections 339.2501 and 339.2512 of
4 the Michigan Compiled Laws, are amended and section 2512c is
5 added to read as follows:

6 Sec. 2501. As used in this article:

7 (A) "PROPERTY MANAGEMENT" MEANS THE MARKETING, MAINTENANCE,
8 AND ADMINISTRATION OF REAL PROPERTY FOR OTHERS FOR A FEE,

1 COMMISSION, COMPENSATION, OR OTHER VALUABLE CONSIDERATION,
2 PURSUANT TO A PROPERTY MANAGEMENT EMPLOYMENT CONTRACT.

3 (B) "PROPERTY MANAGEMENT ACCOUNT" MEANS AN INTEREST-BEARING
4 OR NONINTEREST-BEARING ACCOUNT OR INSTRUMENT USED IN THE OPERA-
5 TION OF PROPERTY MANAGEMENT.

6 (C) "PROPERTY MANAGEMENT EMPLOYMENT CONTRACT" MEANS THE
7 WRITTEN AGREEMENT ENTERED INTO BETWEEN A BROKER AND CLIENT CON-
8 CERNING THE BROKER'S EMPLOYMENT AS A PROPERTY MANAGER FOR THE
9 CLIENT; SETTING FORTH THE BROKER'S DUTIES, RESPONSIBILITIES, AND
10 ACTIVITIES AS A PROPERTY MANAGER; AND SETTING FORTH THE HANDLING,
11 MANAGEMENT, SAFEKEEPING, INVESTMENT, DISBURSEMENT, AND USE OF
12 PROPERTY MANAGEMENT MONEY, FUNDS, AND ACCOUNTS.

13 (D) ~~-(a)-~~ "Real estate broker" means an individual, sole
14 proprietorship, partnership, association, corporation, common law
15 trust, or a combination of those entities who with intent to col-
16 lect or receive a fee, compensation, or valuable consideration,
17 sells or offers for sale, buys or offers to buy, provides or
18 offers to provide market analyses, lists or offers or attempts to
19 list, or negotiates the purchase or sale or exchange or mortgage
20 of real estate, or negotiates for the construction of a building
21 on real estate; who leases or offers or rents or offers for rent
22 real estate or the improvements on the real estate for others, as
23 a whole or partial vocation; WHO ENGAGES IN PROPERTY MANAGEMENT
24 AS A WHOLE OR PARTIAL VOCATION; who sells or offers for sale,
25 buys or offers to buy, leases or offers to lease, or negotiates
26 the purchase or sale or exchange of a business, business
27 opportunity, or the goodwill of an existing business for others;

1 or who, as owner or otherwise, engages in the sale of real estate
2 as a principal vocation.

3 (E) ~~-(b)-~~ "Real estate salesperson" means a person who for
4 compensation or valuable consideration is employed either
5 directly or indirectly by a licensed real estate broker to sell
6 or offer to sell, to buy or offer to buy, to provide or offer to
7 provide market analyses, to list or offer or attempt to list, or
8 to negotiate the purchase or sale or exchange or mortgage of real
9 estate, or to negotiate for the construction of a building on
10 real estate, or to lease or offer to lease, rent or offer for
11 rent real estate, WHO IS EMPLOYED BY A REAL ESTATE BROKER TO
12 ENGAGE IN PROPERTY MANAGEMENT, or who sells or offers for sale,
13 buys or offers to buy, leases or offers to lease, or negotiates
14 the purchase or sale or exchange of a business, business opportu-
15 nity, or the goodwill of an existing business for others, as a
16 whole or partial vocation.

17 Sec. 2512. ~~-(1)-~~ A licensee shall be subject to the penal-
18 ties set forth in article 6 who commits 1 of the following:

19 (a) ~~-Acting-~~ EXCEPT IN A CASE INVOLVING PROPERTY MANAGEMENT,
20 ACTING for more than 1 party in a transaction without the knowl-
21 edge of the parties.

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

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

1 (d) Changing a business location without notification to the
2 ~~commission~~ DEPARTMENT.

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

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

11 (G) IN THE CASE OF A LICENSEE ENGAGED IN PROPERTY MANAGE-
12 MENT, VIOLATION OF SECTION 2512C(2), (5), OR (6).

13 (H) ~~(g) Failing~~ EXCEPT IN THE CASE OF PROPERTY MANAGEMENT
14 ACCOUNTS, FAILURE to deposit in a custodial trust or escrow
15 account money belonging to others coming into the hands of the
16 licensee in compliance with the following:

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

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

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

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

13 (v) A real estate broker shall keep records of funds depos-
14 ited in an account, which records shall indicate clearly the date
15 and from whom the money was received, the date deposited, the
16 date of withdrawal, and other pertinent information concerning
17 the transaction, and shall show clearly for whose account the
18 money is deposited and to whom the money belongs. The records
19 shall be subject to inspection by the department. A separate
20 custodial or trust fund account shall designate the real estate
21 broker as trustee, and the account shall provide for withdrawal
22 of funds without previous notice. This act and the rules promul-
23 gated pursuant to this act shall not be construed to prohibit the
24 deposit of money accepted under this act in a noninterest bearing
25 account of a state or federally chartered savings and loan asso-
26 ciation, or a state or federally chartered credit union.

1 SEC. 2512C. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS
2 SECTION, ALL PROPERTY MANAGEMENT DUTIES, RESPONSIBILITIES, AND
3 ACTIVITIES PERFORMED BY A REAL ESTATE BROKER AND HIS OR HER AGENT
4 ENGAGED IN PROPERTY MANAGEMENT SHALL BE GOVERNED BY AND PERFORMED
5 IN ACCORDANCE WITH A PROPERTY MANAGEMENT EMPLOYMENT CONTRACT.

6 (2) A REAL ESTATE BROKER WHO ENGAGES IN PROPERTY MANAGEMENT
7 SHALL MAINTAIN PROPERTY MANAGEMENT ACCOUNTS SEPARATE FROM ALL
8 OTHER ACCOUNTS. EXCEPT AS PROVIDED IN THIS SECTION, A PROPERTY
9 MANAGEMENT ACCOUNT SHALL BE MANAGED IN ACCORDANCE WITH THE PROP-
10 ERTY MANAGEMENT EMPLOYMENT CONTRACT.

11 (3) A PROPERTY MANAGEMENT ACCOUNT MAY BE AN INTEREST-BEARING
12 ACCOUNT OR INSTRUMENT, UNLESS THE PROPERTY MANAGEMENT EMPLOYMENT
13 CONTRACT PROVIDES TO THE CONTRARY. THE INTEREST EARNED ON A
14 PROPERTY MANAGEMENT ACCOUNT SHALL BE HANDLED IN ACCORDANCE WITH
15 THE PROPERTY MANAGEMENT EMPLOYMENT CONTRACT.

16 (4) A REAL ESTATE BROKER OR ANY DESIGNATED EMPLOYEE OF THE
17 REAL ESTATE BROKER ENGAGED IN PROPERTY MANAGEMENT MAY BE SIGNA-
18 TORY ON DRAFTS OR CHECKS DRAWN ON PROPERTY MANAGEMENT ACCOUNTS.

19 (5) A PERSON WHO ENGAGES IN PROPERTY MANAGEMENT SHALL MAIN-
20 TAIN RECORDS OF FUNDS DEPOSITED AND WITHDRAWN FROM PROPERTY MAN-
21 AGEMENT ACCOUNTS. PROPERTY MANAGEMENT ACCOUNT RECORDS SHALL
22 INDICATE THE DATE OF THE TRANSACTION, FROM WHOM THE MONEY WAS
23 RECEIVED OR TO WHOM IT WAS GIVEN, AND OTHER PERTINENT INFORMATION
24 CONCERNING THE TRANSACTION THE PROPERTY MANAGEMENT EMPLOYMENT
25 CONTRACT MAY REQUIRE.

26 (6) A REAL ESTATE BROKER ENGAGED IN PROPERTY MANAGEMENT
27 SHALL RENDER AN ACCOUNTING TO HIS OR HER PROPERTY MANAGEMENT

- 1 CLIENT AND REMIT ALL MONEY STRICTLY IN ACCORDANCE WITH THE
- 2 PROPERTY MANAGEMENT EMPLOYMENT CONTRACT.