



HOUSE BILL No. 5643

February 28, 1996, Introduced by Rep. Munsell and referred to the Committee on Commerce.

A bill to amend section 2512 of Act No. 299 of the Public Acts of 1980, entitled as amended "Occupational code," as amended by Act No. 333 of the Public Acts of 1994, 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, as amended by Act No. 333 of the Public Acts of 1994,
3 being section 339.2512 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 2512. A licensee ~~shall be~~ WHO COMMITS 1 OR MORE OF
6 THE FOLLOWING IS subject to the penalties set forth in article
7 6: ~~who commits 1 of the following:~~

1 (a) Except in a case involving property management, ~~acting~~
2 ACTS for more than 1 party in a transaction without the knowledge
3 of the parties.

4 (b) Beginning January 1, 1994, ~~failing~~ FAILS to provide a
5 written agency disclosure to a prospective buyer or seller in a
6 real estate transaction.

7 (c) ~~Representing~~ REPRESENTS or ~~attempting~~ ATTEMPTS to
8 represent a real estate broker other than the employer ~~—~~ with-
9 out the express knowledge and consent of the employer.

10 (d) ~~Failure~~ FAILS to account for or to remit money coming
11 into the licensee's possession which belongs to others.

12 (e) ~~Changing~~ CHANGES a business location without notifica-
13 tion to the department.

14 (f) In the case of a real estate broker, ~~failing~~ FAILS to
15 return a real estate salesperson's license within 5 days as pro-
16 vided in section 2507.

17 (g) In the case of a licensee engaged in property manage-
18 ment, ~~violation of~~ VIOLATES section 2512c(2), (5), or (6).

19 (h) Except as provided in section 2512b, ~~sharing~~ SHARES or
20 ~~paying~~ PAYS a fee, commission, or OTHER valuable consideration
21 to a person not licensed under this article including payment to
22 any person providing the names of, or any other information
23 regarding, a potential seller or purchaser of real estate but
24 excluding payment for the purchase of commercially prepared lists
25 of names. However, a licensed real estate broker may pay a com-
26 mission to a licensed real estate broker of another state if the

1 nonresident real estate broker does not conduct in this state a
2 negotiation for which a commission is paid.

3 (i) ~~Conducting~~ CONDUCTS or ~~developing~~ DEVELOPS a market
4 analysis not in compliance with ~~the requirements imposed in~~
5 section 2601(a)(ii).

6 (j) Except in the case of property management accounts,
7 ~~failure~~ FAILS to deposit in a custodial trust or escrow account
8 money belonging to others coming into the hands of the licensee
9 in compliance with the following:

10 (i) A REAL ESTATE BROKER SHALL RETAIN A deposit or other
11 money accepted by a person, partnership, corporation, or associa-
12 tion holding a real estate broker's license under this article
13 ~~shall be retained by a real estate broker~~ pending consummation
14 or termination of the transaction involved ~~,~~ and shall ~~be~~
15 ~~accounted~~ ACCOUNT for ~~in~~ the full amount of the money at the
16 time of the consummation or termination OF THE TRANSACTION.

17 (ii) A real estate salesperson ~~, on receipt of~~ SHALL PAY
18 OVER TO THE REAL ESTATE BROKER, UPON RECEIPT, a deposit or other
19 money on a transaction in which the real estate salesperson is
20 engaged on behalf of ~~a real estate broker employer, shall pay~~
21 ~~over the deposit or other money to~~ the real estate broker.

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

26 (iv) A real estate broker shall deposit, within 2 banking
27 days after ~~the signing of a~~ AN OFFER TO purchase ~~agreement~~ IS

1 ACCEPTED by all parties, ~~but not later than 5 days after~~
2 ~~receipt,~~ money belonging to others in a separate custodial trust
3 or escrow account maintained by the real estate broker with a
4 bank, savings and loan association, credit union, or recognized
5 depository until the transaction involved is consummated or ter-
6 minated, at which time the real estate broker shall account for
7 the full amount received.

8 (v) A real estate broker shall keep records of funds depos-
9 ited in a custodial trust or escrow account, which records shall
10 indicate clearly the date and from whom the money was received,
11 the date deposited, the date of withdrawal, and other pertinent
12 information concerning the transaction, and shall show clearly
13 for whose account the money is deposited and to whom the money
14 belongs. The records shall be subject to inspection by the
15 department. A separate custodial trust or escrow account shall
16 designate the real estate broker as trustee, and the custodial
17 trust or escrow account shall provide for withdrawal of funds
18 without previous notice. This ~~act~~ ARTICLE and the rules
19 promulgated pursuant to this ~~act shall~~ ARTICLE DO not ~~be con-~~
20 ~~strued to~~ prohibit the deposit of money accepted under this
21 ~~act~~ SECTION in a noninterest bearing account of a state or fed-
22 erally chartered savings and loan association or a state or fed-
23 erally chartered credit union.