

AGENCY DISCLOSURE EXCEPTION

Senate Bill 1313 as passed by the Senate
First Analysis (12-5-00)

Sponsor: Sen. Thaddeus G. McCotter
House Committee: Family and Civil Law
Senate Committee: Economic Development,
International Trade and Regulatory
Affairs

THE APPARENT PROBLEM:

Under the Occupational Code, a real estate licensee is required to provide potential buyers or sellers with a disclosure form explaining the various types of agency relationship (e.g., buyer's agents, seller's agent, dual agent) and disclosing the type of relationship that the licensee would have with that individual seller or buyer. There are penalties for failing to do so. Some people believe this requirement is not necessary in commercial real estate transactions, where the parties tend to be represented by their own lawyers.

THE CONTENT OF THE BILL:

The bill would amend the Occupational Code to limit the kinds of real estate transactions in which real estate licensees must provide a prospective buyer or seller with a disclosure form explaining the kinds of agency relationships and designating the relationship that the licensee would have with that seller or buyer.

The bills would specify that the requirement is to apply "in a real estate transaction or potential real estate transaction" and then would define the term "real estate transaction" as a transaction involving the sale or lease of any legal or equitable interest in real estate consisting of not less than one or more than four residential dwelling units or consisting of a building site for a residential unit or a condominium unit. Currently, the term "real estate transaction" means the sale or lease of any legal or equitable interest in real estate.

MCL 339.2512 and 339.2517

BACKGROUND INFORMATION

Additional information on the nature of real estate agency relationships and current regulations regarding disclosure of those relationships by the Occupational Code can be found in the analysis by the House

Legislative Analysis Section of House Bill 5719 of the current legislative session (which became Public Act 236 of 2000) dated 6-28-00.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on state or local government. (11-30-00)

ARGUMENTS:

For:

The bill would restrict the application of current disclosure requirements imposed on real estate licensees to transactions involving residential property containing no more than four dwelling units. The rationale for this is that parties to commercial property transactions typically are represented by lawyers and have their rights and interests protected.

POSITIONS:

The Department of Consumer and Industry Services supports the bill. (12-1-00)

The Michigan Association of Realtors has indicated support for the bill. (11-30-00)

Analyst: C. Couch

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.