

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1313 (as enrolled)

PUBLIC ACT 436 of 2000

Sponsor: Senator Thaddeus G. McCotter

Senate Committee: Economic Development, International Trade and Regulatory Affairs

House Committee: Family and Civil Law

Date Completed: 2-2-01

CONTENT

The bill amended provisions of Article 25 (Real Estate Brokers and Salespersons) of the Occupational Code that require the disclosure of agency relationships, to limit the disclosure requirements to real estate transactions that involve not more than four residential units, or a building site for a residential unit on either a lot or a condominium unit.

Under Article 25, a real estate licensee must disclose to a potential buyer or seller all types of agency relationships available and the licensee's duties, before a potential buyer or seller discloses any confidential information to the licensee regarding a real estate transaction; the disclosure must be on a form as prescribed in the Code. For the purpose of these requirements, Article 25 had defined "real estate transaction" as the sale or lease of any legal or equitable interest in real estate. The bill defines "real estate transaction" as the sale or lease of any legal or equitable interest in real estate where the interest in real estate consists of at least one but not more than four residential dwelling units, or consists of a building site for a residential unit on either a lot, as defined in the Land Division Act, or a condominium unit, as defined in the Condominium Act. The bill also includes this definition in the agency disclosure form set forth in Article 25.

In addition, Article 25 provides for penalties against licensees for certain violations, including failure to provide a written agency disclosure to a prospective buyer or seller in a real estate transaction. The bill refers to a real estate transaction as defined in the bill.

MCL 339.2512 & 339.2517

BACKGROUND

Public Act 93 of 1993 amended Article 25 of the Occupational Code to require real estate licensees (brokers and salespeople) to disclose to a potential buyer or seller all types of agency relationships

available and the licensee's duties that each relationship creates, before the potential buyer or seller discloses to the licensee any confidential information specific to that buyer or seller. (In addition to a buyer's agent and a seller's agent, the Act provides for a dual agent, who may represent both the buyer and the seller in a transaction, with their knowledge and consent. A dual agent is not able to disclose all known information to either party.) Previously, although a real estate salesperson typically worked for the seller, the buyer was not always aware of this because the realtor was showing property to the buyer and obtaining from the buyer information about his or her situation. The realtor then was under a fiduciary obligation to reveal that information to the seller, which some people believed gave the seller an unfair advantage. Public Act 93 of 1993 established the disclosure requirements in order to remedy this situation.

More recently, Public Act 236 of 2000 amended the disclosure requirements, and the statutory disclosure form, to permit a broker and a client to enter into a "designated agency agreement" that names one of the broker's individual salespeople or associate brokers as that client's designated agent. The agreement also must name any "supervisory brokers" (to whom the client's confidential information may be disclosed). As a rule, a client with a designated agency agreement is not considered to have an agency relationship with any of the designated agent's "affiliated licensees" (the other licensed salespeople or associate brokers working for the broker). These amendments provide an alternative to a dual agency relationship in situations in which the parties to a transaction are represented by licensees working for the same broker.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

S9900\sb1313es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.