

SUBSTITUTE FOR  
HOUSE BILL NO. 5719

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending section 2517 (MCL 339.2517), as added by 1993 PA 93.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2517. (1) A licensee shall disclose to a potential  
2 buyer or seller all types of agency relationships available and  
3 the licensee's duties that each agency relationship creates —  
4 ~~prior to~~ BEFORE the disclosure by the potential buyer or seller  
5 to the licensee of any confidential information specific to that  
6 potential buyer or seller.

7       (2) The disclosure of the type of agency relationship shall  
8 be in writing and substantially conform to the following:

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of agency relationship you have with that licensee.

Michigan law requires real estate licensees who are acting as agents of sellers or buyers of real property to advise the potential sellers or buyers with whom they work of the nature of their agency relationship.

Seller's Agents

A seller's agent, under a listing agreement with the seller, acts solely on behalf of the seller. A seller can authorize a seller's agent to work with subagents, buyer's agents and/or transaction coordinators. A subagent is one who has agreed to work with the listing agent, and who, like the listing agent, acts solely on behalf of the seller. Seller's agents and subagents will disclose to the seller known information about the buyer which may be used to the benefit of the seller.

Buyer's Agents

A buyer's agent, under a buyer's agency agreement with the buyer, acts solely on behalf of the buyer. Buyer's agents and subagents will disclose to the buyer known information about the seller which may be used to benefit the buyer.

Dual Agents

A real estate licensee can be the agent of both the seller and the buyer in a transaction, but only with the knowledge and informed consent, in writing, of both the seller and the buyer.

**HB5719, As Passed House, May 11, 2000**

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1 In such a dual agency situation, the licensee will not be  
2 able to disclose all known information to either the seller or  
3 the buyer.

4 The obligations of a dual agent are subject to any specific  
5 provisions set forth in any agreement between the dual agent, the  
6 seller, and the buyer.

7 Licensee Disclosure (CHECK ONE)

8 I hereby disclose that the agency status ~~I/we have with the~~  
9 ~~buyer and/or seller~~ OF THE LICENSEE NAMED below is:

10 \_\_\_\_\_ Seller's Agent

11 \_\_\_\_\_ Buyer's Agent

12 \_\_\_\_\_ Dual Agent

13 \_\_\_\_\_ None of the above

14 AFFILIATED LICENSEE DISCLOSURE (CHECK ONE)

15 \_\_\_\_\_ ONLY THE LICENSEE'S BROKER AND A NAMED SUPERVISORY  
16 BROKER HAVE THE SAME AGENCY RELATIONSHIP AS THE LICENSEE NAMED  
17 BELOW. IF THE OTHER PARTY IN A TRANSACTION IS REPRESENTED BY AN  
18 AFFILIATED LICENSEE, THEN THE LICENSEE'S BROKER AND ALL NAMED  
19 SUPERVISORY BROKERS SHALL BE CONSIDERED DISCLOSED CONSENSUAL DUAL  
20 AGENTS.

21 \_\_\_\_\_ ALL AFFILIATED LICENSEES HAVE THE SAME AGENCY RELATION-  
22 SHIP AS THE LICENSEE NAMED BELOW.

23 Further, this form was provided to ~~them~~ THE BUYER OR  
24 SELLER before disclosure of any confidential information.

25 \_\_\_\_\_  
26 Licensee Date  
27 \_\_\_\_\_  
28 \_\_\_\_\_  
29 \_\_\_\_\_



1 DESIGNATED AGENT. TWO DESIGNATED AGENTS WHO ARE AFFILIATED  
2 LICENSEES MAY EACH REPRESENT A DIFFERENT PARTY IN THE SAME TRANS-  
3 ACTION AND SHALL NOT BE CONSIDERED DUAL AGENTS. THE DESIGNATED  
4 AGENT'S KNOWLEDGE OF CONFIDENTIAL INFORMATION OF A CLIENT IS NOT  
5 IMPUTED TO ANY AFFILIATED LICENSEE NOT HAVING AN AGENCY RELATION-  
6 SHIP WITH THAT CLIENT.

7 (7) A DESIGNATED AGENT SHALL NOT DISCLOSE CONFIDENTIAL  
8 INFORMATION OF A CLIENT TO ANY LICENSEE, WHETHER OR NOT AN AFFIL-  
9 IATED LICENSEE, EXCEPT THAT A DESIGNATED AGENT MAY DISCLOSE TO  
10 ANY SUPERVISORY BROKER CONFIDENTIAL INFORMATION OF A CLIENT FOR  
11 PURPOSES OF SEEKING ADVICE OR ASSISTANCE FOR THE BENEFIT OF THE  
12 CLIENT. A LICENSEE WHO REPRESENTS A CLIENT IN AN AGENCY CAPACITY  
13 DOES NOT BREACH ANY DUTY OR OBLIGATION OWED TO THAT CLIENT BY  
14 FAILING TO DISCLOSE TO THAT CLIENT INFORMATION OBTAINED THROUGH A  
15 PRESENT OR PRIOR AGENCY RELATIONSHIP.

16 (8) A LISTING AGREEMENT OR A BUYER'S AGENCY AGREEMENT MAY BE  
17 AMENDED TO ESTABLISH A DESIGNATED AGENCY RELATIONSHIP, TO CHANGE  
18 A DESIGNATED AGENT, OR TO CHANGE SUPERVISORY BROKERS AT ANY TIME  
19 PURSUANT TO A WRITTEN ADDENDUM SIGNED BY THE PARTIES.

20 (9) ~~-(4)-~~ As used in this section:

21 (A) "AFFILIATED LICENSEES" MEANS INDIVIDUALS LICENSED AS  
22 SALESPERSONS OR ASSOCIATE BROKERS WHO ARE EMPLOYED BY THE SAME  
23 BROKER.

24 (B) ~~-(a)-~~ "Buyer" means a purchaser, tenant, or lessee of  
25 any legal or equitable interest in real estate.

26 (C) ~~-(b)-~~ "Buyer's agent" means a licensee acting on behalf  
27 of the buyer who undertakes to accept the responsibility of

1 serving the buyer consistent with those fiduciary duties existing  
2 under common law.

3 (D) "DESIGNATED AGENT" MEANS AN INDIVIDUAL SALESPERSON OR AN  
4 ASSOCIATE BROKER WHO IS DESIGNATED BY THE BROKER AS THE CLIENT'S  
5 LEGAL AGENT PURSUANT TO A DESIGNATED AGENCY AGREEMENT.

6 (E) "DESIGNATED AGENCY AGREEMENT" MEANS A WRITTEN AGREEMENT  
7 BETWEEN A BROKER AND A CLIENT IN WHICH AN INDIVIDUAL SALESPERSON  
8 OR ASSOCIATE BROKER AFFILIATED WITH THAT BROKER IS NAMED AS THAT  
9 CLIENT'S DESIGNATED AGENT.

10 (F) ~~-(c)-~~ "Dual agent" means a licensee who is acting as the  
11 agent of both the buyer and the seller and provides services to  
12 complete a real estate transaction without the full range of  
13 fiduciary duties owed by a buyer's agent and a seller's agent.

14 (G) ~~-(d)-~~ "Real estate transaction" means the sale or lease  
15 of any legal or equitable interest in real estate.

16 (H) ~~-(e)-~~ "Seller" means the equitable or legal owner of  
17 real estate.

18 (I) ~~-(f)-~~ "Seller's agent" means a licensee acting on behalf  
19 of the seller who undertakes to accept the responsibility of  
20 serving the seller consistent with those fiduciary duties exist-  
21 ing under common law.

22 (J) "SUPERVISORY BROKER" MEANS AN ASSOCIATE BROKER DESIG-  
23 NATED IN A WRITTEN AGENCY AGREEMENT TO ACT IN A SUPERVISORY ROLE  
24 IN AN AGENCY RELATIONSHIP.

25 (K) ~~-(g)-~~ "Transaction coordinator" means a licensee who is  
26 not acting as the agent of either the buyer or the seller.