

HOUSE BILL No. 5106

October 1, 2003, Introduced by Reps. Richardville, Spade, Anderson, Koetje, Acciavatti, DeRossett, Huizenga, Wojno, Emmons, Robertson, Pappageorge, Bieda, Stakoe, Kooiman and Farhat and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
 "Occupational code,"
 by amending sections 2504 and 2505 (MCL 339.2504 and 339.2505),
 section 2504 as amended by 2002 PA 611 and section 2505 as
 amended by 1988 PA 463.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2504. (1) Before receiving a real estate broker's
 2 license, an applicant shall **submit an application as described in**
 3 **section 2505 and shall** have successfully completed not less than
 4 90 clock hours of approved classroom courses in real estate of
 5 which not less than 9 clock hours shall be instruction on civil
 6 rights law and equal opportunity in housing. ~~—, and shall submit~~
 7 ~~an application as described in section 2505.~~ The 90 hours shall
 8 be in addition to the hours required to obtain a real estate
 9 salesperson's license.

1 (2) Before being permitted to take the real estate
2 salesperson's examination, an applicant shall show proof of
3 successful completion of not less than 40 clock hours of
4 classroom courses in principles of real estate, of which not less
5 than 4 clock hours shall be instruction on civil rights law and
6 equal opportunity in housing.

7 (3) For purposes of subsections (1) and (2), approved courses
8 may be on the following topics:

9 (a) Real estate license law and related regulatory laws.

10 (b) Real property law, including property interests and
11 restrictions.

12 (c) Federal, state, and local tax laws affecting real
13 property.

14 (d) Conveyances, including contracts, deeds, and leases.

15 (e) Financing, including mortgages, land contracts,
16 foreclosure, and limits on lending procedures and interest
17 rates.

18 (f) Appraisal of real property.

19 (g) Design and construction.

20 (h) Marketing, exchanging, and counseling.

21 (i) The law of agency.

22 (j) Sales and office management, including listing and
23 selling techniques.

24 (k) Real estate securities and syndications.

25 (l) Investments, including property management.

26 (4) Except as otherwise provided in this subsection, before
27 being permitted to renew an active real estate broker's or real

1 estate salesperson's license, a licensee shall have successfully
2 completed, within the preceding 12 months, not less than 6 clock
3 hours of continuing education approved by the department
4 involving any topics relevant to the management, operation, and
5 practice of real estate and covering changes in economic
6 conditions, law, rules, court cases, and interpretations, or any
7 combination of those changes, relating to real property which are
8 pertinent to the activities of a real estate broker or real
9 estate salesperson. Beginning November 1, 2003, a licensee shall
10 complete not less than 18 hours of continuing education per
11 3-year license cycle. A licensee shall complete at least 6 hours
12 of the required 18 hours of continuing education courses during
13 the time period from November 1, 2003 and ending on December 31,
14 2004. During calendar year 2005, a licensee shall complete at
15 least 6 hours of the required 18 hours of continuing education
16 courses. During calendar year 2006, a licensee shall complete at
17 least 4 hours of the required 18 hours of continuing education
18 courses. During calendar year 2007 and thereafter, a licensee
19 shall complete at least 2 hours of the required 18 hours of
20 continuing education courses per calendar year. Any education
21 ~~approved by the department that is received~~ **successfully**
22 **completed** by a licensee for further professional designation
23 ~~shall~~ **and approved by the department as continuing education**
24 **may** be counted toward the total continuing education credits
25 required for the 3-year license cycle. Each licensee, in
26 completing the appropriate number of clock hours, will have the
27 option of selecting the education courses in that licensee's area

1 of expertise, as long as the education courses are approved by
 2 the department and as long as at least 2 hours of an education
 3 course per calendar year involve law, rules, and court cases
 4 regarding real estate. Notwithstanding **the provisions of this**
 5 subsection, the department may ~~relicense~~ **renew the license of a**
 6 licensee who has completed not less than 18 hours of continuing
 7 education in the subject matter areas required by this subsection
 8 during the 3-year license cycle but has not otherwise met the
 9 requirements of this section if the licensee provides evidence
 10 satisfactory to the department that he or she has good cause for
 11 not complying with the requirements in this subsection.

12 (5) ~~A license which has been inactive~~ **The department may**
 13 **relicense without examination a licensee whose license has lapsed**
 14 for less than 3 years ~~may be reinstated without examination~~ if
 15 the licensee shows proof of completion of not less than ~~the~~
 16 ~~appropriate number of~~ **6** clock hours of continuing education **for**
 17 **each year the license was lapsed, on topics as** described in
 18 subsection (4). ~~A broker's~~

19 (6) **The department may relicense without examination a broker**
 20 **whose** license ~~which~~ has ~~been inactive~~ **lapsed** for 3 or more
 21 continuous years ~~may be reinstated without examination~~ if the
 22 licensee provides proof of the **successful** completion of ~~either~~
 23 ~~6- 1 of the following:~~

24 (a) **Six** clock hours of continuing education **for each of the**
 25 **years the license was lapsed on topics** described in subsection
 26 (4). ~~for each of the years the license was inactive or 40~~

27 (b) **Ninety** clock hours of instruction described in

1 ~~subsection~~ **subsections (1) and (3).**

2 (c) **Passing the examination required for licensure as a**
3 **broker as provided for in section 2505(5).**

4 (7) A ~~salesperson's~~ **salesperson whose** license ~~which~~ has
5 been ~~inactive~~ **lapsed** for 3 or more continuous years may be
6 ~~reinstated~~ **relicensed** if the licensee provides proof of
7 ~~meeting~~ **the successful completion completion of** 1 of the
8 following: ~~requirements:~~

9 (a) ~~Completion of 6~~ **Six** clock hours of continuing education
10 **for each of the years the license was lapsed on topics** described
11 in subsection (4). ~~for each of the years the license was~~
12 ~~inactive.~~

13 (b) ~~Completion of 40~~ **Forty** clock hours of instruction
14 described in ~~subsection~~ **subsections (2) and (3).**

15 (c) **Passing the examination required for licensure as a**
16 **salesperson as provided in** ~~subsection (2)~~ **section 2505(5).**

17 (8) ~~(6)~~ **The department shall not apply the course credits**
18 **used to meet** continuing education requirements provided in
19 subsections (4) ~~and (5)~~ **shall not be applied through (7)**
20 **towards the real estate broker's license education requirements**
21 **provided in subsection (1), and** ~~courses~~ **course credits** taken
22 under real estate broker's license education requirements shall
23 not be applied towards the continuing education requirements.
24 **The department shall apportion the approved course credits**
25 **eligible for education requirements in subsection (1) and**
26 **subsections (4) through (7) to meet either requirement upon the**
27 **licensee's request.**

1 (9) ~~-(7)-~~ For real estate brokers, associate brokers, and
2 salespersons who receive a license issued in the second or third
3 years of a 3-year license cycle, continuing education shall be in
4 compliance with subsection (4), except for the following:

5 (a) A real estate broker, associate broker, or salesperson
6 who receives a license issued in the second year of the 3-year
7 license cycle is required to complete 12 hours of continuing
8 education to renew his or her license.

9 (b) A real estate broker, associate broker, or salesperson
10 who receives a license issued in the third year of the 3-year
11 licensing cycle is required to complete 6 hours of continuing
12 education to renew his or her license.

13 (10) ~~-(8)-~~ A person who offers or conducts a course or
14 courses of study represented to meet the educational requirements
15 of this article ~~—~~ first shall obtain approval from the
16 department and shall ~~abide by~~ **comply with** the rules of the
17 department concerning curriculum, instructor qualification,
18 grading system, and other related matters. In addition to other
19 requirements imposed under rule, in order to receive approval ~~—~~
20 a course shall be designed to be taught for not less than 1 clock
21 hour, not including time spent on breaks, meals, or other
22 unrelated activities, provided the course is only approved for
23 less than 2 clock hours if, based upon the subject matter, course
24 outline, instructional materials, methodology, and other
25 considerations consistent with rules of the department, the
26 department determines that the course objectives can be
27 effectively met in the proposed time period. The department may

1 suspend or revoke the approval of a person for a violation of
2 this article or of the rules promulgated under this article. A
3 person **offering or conducting a course** shall not represent that
4 its students are assured of passing an examination required by
5 the department. A person shall not represent that the issuance
6 of departmental approval is a recommendation or indorsement of
7 the person to which it is issued or of a course of instruction
8 given by it. A pre-licensure course approved under this article
9 shall be conducted by a local public school district, a community
10 college, an institution of higher education authorized to grant
11 degrees, or a ~~private~~ **proprietary** school licensed by the
12 department of career development under 1943 PA 148, MCL 395.101
13 to 395.103.

14 **(11)** ~~-(9)-~~ A person who in operating a school violates
15 subsection ~~-(8)-~~ **(10)** is subject to the penalties set forth in
16 article 6.

17 **(12)** ~~-(10)-~~ The department may conduct, hold, or assist in
18 conducting or holding, a real estate clinic, meeting, course, or
19 institute, which shall be open to a person licensed under this
20 article, and may incur the necessary expenses in connection with
21 the clinic, meeting, course, or institute. The department, in
22 the public interest, may assist educational institutions within
23 this state in sponsoring studies, research, and programs for the
24 purpose of raising the standards of professional practice in real
25 estate and the competence of a licensee.

26 Sec. 2505. (1) An applicant for a real estate broker's
27 license shall file an application setting forth the applicant's

1 present address, both of business and residence; the complete
2 address of each former place where the applicant has resided or
3 been engaged in business, or acted as a real estate salesperson,
4 for a period of 60 days or more, during the 5 years immediately
5 preceding the date of application. An applicant for a real
6 estate broker's license shall state the name of the individual,
7 sole proprietorship, partnership, association, corporation,
8 **limited liability company**, common law trust, or a combination of
9 those entities and the location of the place for which the
10 license is desired, and set forth the period of time which the
11 applicant has been engaged in the business. The application
12 shall be executed by the person, or by an officer or member of
13 the applicant. An applicant for a real estate broker's license
14 which is a partnership, association, corporation, **limited**
15 **liability company**, common law trust, or a combination of those
16 entities shall designate which individuals who are officers or
17 members of the partnership, association, **limited liability**
18 **company**, or corporation will be performing acts regulated by this
19 article as principals.

20 (2) ~~A~~ **The department shall not issue a** real estate broker's
21 license ~~shall not be issued~~ to a new applicant who has been
22 convicted of embezzlement or misappropriation of funds.

23 (3) A real estate broker shall maintain a place of business
24 in this state. If a real estate broker maintains more than 1
25 place of business within the state, a branch office license shall
26 be secured by the real estate broker for each branch office
27 maintained. A branch office maintained in excess of 25 miles

1 from the city limits in which the broker maintains a main office
2 shall be under the personal, direct supervision of an associate
3 broker.

4 (4) An applicant for a salesperson's license shall set forth
5 the period of time during which the individual has been engaged
6 in the business, stating the name of the applicant's last
7 employer and the name and the place of business of the
8 individual, partnership, association, ~~or~~ **limited liability**
9 **company, corporation, common law trust, or combination of those**
10 **entities** then employing the applicant or in whose employ the
11 applicant is to enter. The application shall be signed by the
12 real estate broker in whose employ the applicant is to enter.

13 (5) Before issuing a license, the department may require and
14 procure satisfactory proof of the business experience,
15 competence, and good moral character of an applicant for a real
16 estate broker's or salesperson's license or of an officer or
17 member of an applicant. The department shall require an
18 applicant for a broker's or salesperson's license to pass an
19 examination developed by the department or contracted for with a
20 recognized outside testing agency establishing, in a manner
21 satisfactory to the department, that the applicant has a fair
22 knowledge of the English language, including reading, writing,
23 spelling, and elementary arithmetic; a satisfactory understanding
24 of the fundamentals of real estate practice and of the laws and
25 principles of real estate conveyancing, deeds, mortgages, land
26 contracts, and leases; the obligations of a broker to the public
27 and a principal; and the law defining, regulating, and licensing

1 real estate brokers and salespersons. The department may require
2 written examination or written reexamination of a broker or
3 salesperson, and in that case a passing score satisfactory to the
4 department is required as a condition precedent to ~~reinstatement~~
5 ~~of a license to a broker or salesperson or~~ relicensure of a
6 broker or salesperson. The department shall require proof that
7 each applicant for a real estate broker's license has the
8 equivalent of 3 years of full-time experience in the business of
9 real estate or in a field that is determined by the department to
10 be relevant and related to the business of real estate.