

Legislative Analysis



REAL ESTATE BROKER RESPONSIBILITIES

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House Bills 4849 (Substitute H-1)
Sponsor: Rep. Tonya Schuitmaker

House Bill 4850 (Substitute H-1)
Sponsor: Rep. Kevin Green
Committee: Regulatory Reform

Complete to 10-5-05

A SUMMARY OF HOUSE BILLS 4849 & 4850 AS REPORTED FROM COMMITTEE

The bills would Article 25 (Real Estate Brokers and Salespersons) of the Occupational Code to require brokers in an exclusive agency relationship to require certain minimum services, and require disclosure of those responsibilities.

House Bill 4849

The bill would specify that a licensed real estate broker who fails to provide certain minimum services under an exclusive service provision agreement would be subject to the code's penalties. Under the bill, a real estate broker acting under a service provision agreement creating an exclusive agency relationship would, at a minimum, be required to provide the following services to the client:

- Market the client's property in the manner agreed upon in the service provision agreement, when representing a seller or lessor;
- Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease;
- Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related notices or documents until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived;
- After execution of a purchase agreement, assistance as necessary to complete the transaction under the terms specified in the purchase agreement; and
- Furnishing, or causing to be furnished, a complete and detailed closing statement.

A licensee providing real estate services under an agreement allowed under law that is not a service provision agreement creating an exclusive agency relationship is not considered in violation of the bill. A "service provision agreement" would mean an agreement between broker and client that establishes an agency relationship through a listing agreement or a buyer agency agreement.

House Bill 4850

The bill would require the written agency disclosure statement that a real estate broker providing services under an exclusive service provision agreement must provide a client to include the services listed in HB 4850.

[Note: Michigan law requires real estate licensees who are acting as agents or sellers or buyers of real property to advise the potential sellers or buyers with whom they work of the nature of the agency relationship and contains a model of the disclosure form.]

The two bills are tie-barred meaning that neither bill would take effect unless both were enacted.

MCL 339.2512 (HB 4849) and 324.2517 (HB 4850)

FISCAL IMPACT:

There is no fiscal impact on the State of Michigan or its local units of government.

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■ 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.