

**SUBSTITUTE FOR  
HOUSE BILL NO. 4850**

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending section 2517 (MCL 339.2517), as amended by 2000 PA  
436.

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

1       Sec. 2517. (1) A licensee shall disclose to a potential  
2 buyer or seller in a real estate transaction all types of agency  
3 relationships available and the licensee's duties that each  
4 agency relationship creates before the disclosure by the  
5 potential buyer or seller to the licensee of any confidential  
6 information specific to that 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. A real estate transaction is a transaction involving the sale or lease of any legal or equitable interest in real estate consisting of not less than 1 or not more than 4 residential dwelling units or consisting of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

AN AGENT PROVIDING SERVICES UNDER AN EXCLUSIVE SERVICE

PROVISION AGREEMENT OWES THE FOLLOWING DUTIES TO THE CLIENT: (1) WHEN REPRESENTING A SELLER OR LESSOR, THE MARKETING OF THE CLIENT'S PROPERTY IN THE MANNER AGREED UPON IN THE AGREEMENT; (2) ACCEPTANCE OF DELIVERY AND PRESENTATION OF OFFERS AND COUNTEROFFERS TO BUY, SELL, OR LEASE THE CLIENT'S PROPERTY; (3) 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; (4) AFTER EXECUTION OF A PURCHASE AGREEMENT, ASSISTANCE AS NECESSARY TO COMPLETE THE TRANSACTION UNDER THE TERMS SPECIFIED IN THE PURCHASE AGREEMENT; (5) FURNISHING, OR CAUSING TO BE FURNISHED, A COMPLETE AND DETAILED CLOSING STATEMENT.

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

5 Seller's Agents

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

14 Buyer's Agents

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

19 Dual Agents

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

23 In such a dual agency situation, the licensee will not be

1 able to disclose all known information to either the seller or  
2 the buyer.

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

6 Licensee Disclosure (check one)

7 I hereby disclose that the agency status of the licensee  
8 named below is:

- 9 \_\_\_\_\_ Seller's Agent  
10 \_\_\_\_\_ Buyer's Agent  
11 \_\_\_\_\_ Dual Agent  
12 \_\_\_\_\_ None of the above

13 Affiliated Licensee Disclosure (check one)

14 \_\_\_\_\_ Only the licensee's broker and a named supervisory  
15 broker have the same agency relationship as the licensee named  
16 below. If the other party in a transaction is represented by an  
17 affiliated licensee, then the licensee's broker and all named  
18 supervisory brokers shall be considered disclosed consensual dual  
19 agents.

20 \_\_\_\_\_ All affiliated licensees have the same agency  
21 relationship as the licensee named below.

22 Further, this form was provided to the buyer or seller  
23 before disclosure of any confidential information.

1 \_\_\_\_\_  
 2 Licensee Date

3 \_\_\_\_\_  
 4 Licensee Date

5 Acknowledgment

6 By signing below, the parties confirm that they have  
 7 received and read the information in this agency disclosure  
 8 statement and that this form was provided to them before the  
 9 disclosure of any confidential information specific to the  
 10 potential sellers or buyers.

11 \_\_\_\_\_  
 12 Potential Buyer/Seller (circle one) Date

13 \_\_\_\_\_  
 14 Potential Buyer/Seller (circle one) Date

15 (3) This article does not prevent a licensee from acting as  
 16 a transaction coordinator upon proper notice to all parties to a  
 17 real estate transaction.

18 (4) A broker and a client may enter into a designated agency  
 19 agreement. In the absence of a written designated agency  
 20 agreement, a client is considered to have an agency relationship  
 21 with the broker and all affiliated licensees.

22 (5) A designated agency agreement shall contain the name of  
 23 all associate brokers who are authorized to act as supervisory  
 24 brokers. If designated agents who are affiliated licensees  
 25 represent different parties in the same real estate transaction,  
 26 the broker and all supervisory brokers are considered disclosed

1 consensual dual agents for that real estate transaction.  
2 Designated agents who are affiliated licensees representing  
3 different parties in the same transaction shall notify their  
4 clients that their broker represents both buyer and seller before  
5 an offer to purchase is made or presented.

6 (6) Except as otherwise provided in subsection (5), a client  
7 with a designated agency agreement is not considered to have an  
8 agency relationship with any affiliated licensees of the  
9 designated agent. Two designated agents who are affiliated  
10 licensees may each represent a different party in the same  
11 transaction and shall not be considered dual agents. The  
12 designated agent's knowledge of confidential information of a  
13 client is not imputed to any affiliated licensee not having an  
14 agency relationship with that client.

15 (7) A designated agent shall not disclose confidential  
16 information of a client to any licensee, whether or not an  
17 affiliated licensee, except that a designated agent may disclose  
18 to any supervisory broker confidential information of a client  
19 for purposes of seeking advice or assistance for the benefit of  
20 the client. A licensee who represents a client in an agency  
21 capacity does not breach any duty or obligation owed to that  
22 client by failing to disclose to that client information obtained  
23 through a present or prior agency relationship.

24 (8) A listing agreement or a buyer's agency agreement may be  
25 amended to establish a designated agency relationship, to change  
26 a designated agent, or to change supervisory brokers at any time  
27 pursuant to a written addendum signed by the parties.

1 (9) As used in this section:

2 (a) "Affiliated licensees" means individuals licensed as  
3 salespersons or associate brokers who are employed by the same  
4 broker.

5 (b) "Buyer" means a purchaser, tenant, or lessee of any  
6 legal or equitable interest in real estate.

7 (c) "Buyer's agent" means a licensee acting on behalf of the  
8 buyer in a real estate transaction who undertakes to accept the  
9 responsibility of serving the buyer consistent with those  
10 fiduciary duties existing under common law.

11 (d) "Designated agent" means an individual salesperson or an  
12 associate broker who is designated by the broker as the client's  
13 legal agent pursuant to a designated agency agreement.

14 (e) "Designated agency agreement" means a written agreement  
15 between a broker and a client in which an individual salesperson  
16 or associate broker affiliated with that broker is named as that  
17 client's designated agent.

18 (f) "Dual agent" means a licensee who is acting as the agent  
19 of both the buyer and the seller and provides services to  
20 complete a real estate transaction without the full range of  
21 fiduciary duties owed by a buyer's agent and a seller's agent.

22 (g) "Real estate transaction" means the sale or lease of any  
23 legal or equitable interest in real estate where the interest in  
24 real estate consists of not less than 1 or not more than 4  
25 residential dwelling units or consists of a building site for a  
26 residential unit on either a lot as defined in section 102 of the  
27 land division act, 1967 PA 288, MCL 560.102, or a condominium

1 unit as defined in section 4 of the condominium act, 1978 PA 59,  
2 MCL 559.104.

3 (h) "Seller" means the equitable or legal owner of real  
4 estate.

5 (i) "Seller's agent" means a licensee acting on behalf of  
6 the seller in a real estate transaction who undertakes to accept  
7 the responsibility of serving the seller consistent with those  
8 fiduciary duties existing under common law.

9 (j) "Supervisory broker" means an associate broker  
10 designated in a written agency agreement to act in a supervisory  
11 role in an agency relationship.

12 (k) "Transaction coordinator" means a licensee who is not  
13 acting as the agent of either the buyer or the seller.

14 Enacting section 1. This amendatory act does not take  
15 effect unless House Bill No. 4849 of the 93rd Legislature is  
16 enacted into law.